



CONTRIBUTORS

Mr. K. K. Ramani, Advocate, High Court

Mr. N. C. Jain, Former Chief Commissioner of Income Tax

Mr. Sunil K. Ramani, Advocate, High Court

Mr. K. R. Lakshminarayanan, Advocate, High Court

CA M. S. Varadarajan

CA Vasu Harwani,

Mr. Vinay Sinha, Advocate, High Court

Mr. Nitin Tabhane, Advocate, High Court

Ms. Raina Bhagatwala, Advocate, High Court

CA Chitrakshi Shettigar,

K. K. Ramani & Co. (Advocates)

Plot No.118, Ramani Villa, 1st Road, TPS IV,

Bandra (West), Mumbai 400 050 - India

Tel: 91 22 26516611

Email: kkrco@ramanilegal.com

property@ramanilegal.com

www.ramanilegal.com

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FOREWORD

Budgets are always awaited with expectations with different people having their own views as to what it will unfold. Budget 2017, apart from being the first budget to be presented in the beginning of February and combining the budget of Railways, had more possibilities in store due mainly to the claimed continuing fight against black money particularly in the context of demonetization which was hailed as indicator of further stern actions against the menace of shadow economy, corruption and fight against terrorism. The solace by way of hope for a bright future offered to the suffering public due to cash crunch was to be seen as reality for which budget was seen as an instrument. Prospect of unexpected gains by black money not deposited in banks and likely windfall surge in tax revenue under the Pradhan Mantri Garib Kalyan Yojna was seen as factor facilitating allotment for welfare and upliftment of poor and down trodden. At macro level, the gloomy fallout of demonetization predicted by critics and forecast of declining economic growth had to be proved misplaced atleast in the middle and long run. The IMF had reduced the projected rate of growth for the current fiscal year from earlier 7.6% to 6.6%. The country is to make further advances in getting its place of preferred investment destination and substantially improve its ranking from existing 130 out of 189 countries on which depends the success of 'Make in India' initiative with impact on creation of additional job opportunities. One cannot, however, ignore the fact this was to be a budget of the year when election in five States are to follow the presentation of the budget and the general election of 2019 is not too far away.

2. In matters of fiscal reforms, although with little deferment, the Goods and Services Tax integrating the multiple indirect taxes is now a certainty. It being the most radical reform with great prospects of rationalisation in taxes, the FM has to take steps to align the tax structure to the needs of the GST introduction. In the area of direct taxation, after several postponements, GAAR is to come into effect from April, 2017 which has lot of apprehensions in the mind of the taxpayers particularly the foreign investors. The provision enables the tax authorities to treat transaction designed for tax evasion as impermissible arrangement enabling them to disregard, combine or recharacterise the transactions or make other changes as per law. Although CBDT has attempted to allay the fears by issue of circular a few days before the budget presentation, it needs to be seen whether any legislative measures are taken to make the provision work with justice and fair-play. The panic in the stock market created by a statement of the Hon'ble Prime Minister as to bearing of tax burden by persons dealing in stocks, which was understood as withdrawal of exemption on long-term capital gains on shares, had also created anxiety to see that the later assurance made by the Finance Minister is honoured.

3. The Economic Survey for the Financial year 2016-17 did show a declined rate of growth in the last quarter of the year but as stated by the Finance Minister in his budget speech the effect of demonetization, whatever it may be, is not expected to spill over to next year and will have only a transient impact on economy. The growth rate projections of IMF and the World Bank are quite optimistic. Demonetisation of currency has been referred to in the budget speech as the bold and decisive measure which will

create a new 'normal' in the bigger, cleaner and real economy. Although there is no direct nexus with demonetization, the other economic indicators projected in the budget show encouraging picture. Fiscal deficit has been pegged at 3.2% for the current year and at 3% for the next three years and current account deficit has come down to 0.3% from 1% earlier, inflation brought down to 3.6% in July and foreign exchange reserve stands at \$ 361 billion. FDI over the first half of the current year was of the order of Rs. 1,45,000 crore which is adequate to sustain for more than 12 months.

4. As expected the budget takes care of rural development, infrastructure and poverty alleviation as the main planks. The allocations made are guided by three broad objectives viz. transform, energise and clean India which is referred to as TEC. To achieve these objectives, ten distinct themes have been envisaged, the foremost of them being farmers. Massive allocation of funds to be spent in rural areas of Rs. 1,87,223 crore is higher by 24%. Allocation for MGNREGA has also been raised to Rs.48000 Crores. Rs.396135 Crore for infrastructure, Rs.1,84,632 crore for women and child development and other allocations towards poverty alleviation are made mainly to uplift rural sector based on the vision to double the farmer's income in five years. With good monsoon and steps proposed in the budget, the agricultural economy is likely to grow by 4.1%. Attention has also been paid to small and medium sized industries and a level playing field has been attempted to be created by bridging the gap between the effective rate of taxation in comparison to large corporate.

5. Taking account of the Constitution Amendment Bill passed by the legislature to make way for the introduction of GST and the subsequent progress made by the GST Council, the FM very justifiably maintained stability by desisting from making changes in the area of indirect taxation including Service Tax which will all be subsumed by GST. The extensive awareness programme of the new taxation system will start from 1st. April, 2017.

6. In the area of personal taxation, the expectations of increased tax exemption limit or reduction in rates has not been met. Relief has, however, been provided in the name of small tax payers by reducing the tax rate applicable in the initial slab of Rs. 2,50,000 to Rs. 5,00,000 from existing 10% to 5%. Simultaneously, rebate is reduced to Rs. 2500 which will be available to persons with income upto Rs. three lakh only, with the result that persons with income upto Rs.3 lakh will have no tax liability. Although the relief appears to be intended to small taxpayers, its benefit will go across the board and all will get tax benefit of upto Rs.12875/-, the justification of which may be questionable in the context of abysmally low Tax- GDP ratio and low direct-indirect tax ratio mentioned by the FM. As a compensation to loss of revenue, income from Rs. 50 Lakhs to Rs. One crore will be subjected to surcharge at 10%. The existing surcharge of 15% on income above Rs. one crore continues. Other proposals like increase in the threshold limit for audit and maintenance of account in the case of presumptive taxation, payment of advance tax in one instalment by the professionals opting for presumptive taxation, assurance of one page return and no scrutiny are welcome steps which will facilitate compliance.

7. The rationale of compression of time for completion of scrutiny assessment from 21 months to 18 months for AY 2018-19 and further to 12 months from AY 2019-2020 is not understandable. In the past also we have been making changes in such limits with to and fro movements causing avoidable confusions and making the law complicated.

8. The proposal that deserves widest acclaim is one for incentivizing the real estate sector for construction of **affordable housing**. The government is committed to complete one crore houses by 2019 for the homeless and those living in kutcha houses. The allocation for Pradhan Mantri Awaas Yojna has been stepped up from Rs.15000 crore to Rs. 23000 crore. To mention the fiscal incentive, the tax exemption in respect of profit from business of developing and building housing project that was given last year has been considerably liberalized to encourage development of such affordable housing. Total exemption was available if the project was completed within 3 years from the date of first approval. The condition of completion within 3 years from the date of approval has been relaxed by prescribing the period of 5 year. Further, the residential units were not to exceed the built up area of 30 sq.mt. in the cities of Chennai, Delhi, Kolkata or Mumbai or within the peripheral area of 25 km and, 60 sq.mt in the rest of the country. This being too short a limit for built up area, the proposal seeks to prescribe this limit for carpet area rather than the built up area. The peripheral areas of metropolitan cities in which the unit could not have exceeded 30 sq.mt. will now be treated as rest of the country and it will be permissible to construct units of 60 sqmt. carpet area there also. The proposal will go a long way in making such projects more attractive.

8.1 Another problem being faced by the builders is taxation of unsold units which are their stock in trade. Such unit, under the present law are taxable under the property head at their notional value. The proposed amendment seeks to provide relief by providing that the annual letting value of such units for a period of one year from completion will be nil which will provide the builders breathing time to sell those units.

8.2 The year of taxability under the development projects in which the owner of land/building transfers development rights to another person in consideration of a share in the constructed area has been a contentious issue. Such joint development projects are proposed to be made taxable in the year of completion of the project.

8.3 A further step to encourage investment in immovable property is reduction in the holding period for the property to qualify as long term asset. The existing period of holding to make the asset a long term is proposed to be reduced from 10. existing three to two years. However, indexation of cost for which the base date presently is 1.4.1981 is proposed to be changed to 1.4.2001. For the property acquired before 1.4.2001, its market value as on 1.4.2001 will be treated as the cost of acquisition for purposes of computation of capital gains.

8.4 The provisions relating to real estate when viewed in totality should boost up the construction of affordable housing and may also improve sentiments in the real estate sector.

9. In his budget for 2015, the FM gave an assurance to bring down the corporate tax rate to 25% within a period of 4 years and simultaneously to

withdraw exemptions which reduce the effective tax rate. In keeping with his promise, he reduced the rate to 25% in 2016 budget in respect of new manufacturing companies who do not avail of any exemption. Further, the tax rate was reduced by one percent in respect of companies whose turnover was less than Rs. 5 crore. The budget proposes to reduce the income tax on such small companies by raising the turnover limit to Rs. 50 crore. Such companies will be taxed at 25%. The proposal will also help the medium and small enterprises and firms to migrate to company format.

10. Vide Finance Act, 2016 a provision was made for taxing those individuals, Hindu Undivided Families or Firms whose income includes income by way of dividend aggregating more than Rs.10 Lakhs. Such persons are to be taxed at the rate of 10% of the amount of dividend exceeding Rs.10 Lakhs. The scope of this section is proposed to be extended by making it applicable to all residents except domestic companies, funds or trusts, universities, educational institutions or medical institutions whose income is exempt from tax. The amendment will bring within the scope of taxation all private trusts which have made investment in shares and deriving dividend therefrom exceeding Rs.10 Lakhs.

11. As a further step in continuation of demonetization towards crack down on cash economy, the government has accepted the recommendations of Special Investigation Team working for unearthing black money stashed abroad and declared illegal the cash transactions of the value of Rs. 3 lakh and above. Violation is subjected to penalty equal to the amount. The income tax provision which makes cash payment exceeding Rs. 20,000 inadmissible has also been amended to reduce the limit to Rs. 10,000. Similarly, amendment has been proposed in Section 80G to tax cash donations exceeding Rs.2000 in place of Rs. 10,000 at present.

12. Electoral funding has been one of the root causes of circulation and creation of black money. As a further step in the series of measures to curb black money and in order to bring transparency in the source of funding to political parties, the budget proposes to ban donations of Rs. 2,000 or more unless it is made by cheque or draft or by electronic clearing system. It is obligatory for political parties to furnish a return of income as per the provisions of section 139(4B) of the Act. The issue of Electoral Bonds by the RBI is also proposed which can be purchased by the donor, the proceeds of which will go to the account of the political party.

We have prepared clause wise analysis of the Finance Bill, 2017. We hope you will find it useful.

K. K. Ramani & Co. (Advocates)

Plot No.118, Ramani Villa, 1st Road, TPS IV,
Near Standard Chartered Bank,
Bandra (West), Mumbai 400 050 - India
Tel: 91 22 26516611
Fax: 91 22 26404702

Email: kkrco@ramanilegal.com

property@ramanilegal.com

www.ramanilegal.com

BUDGET AT A GLANCE
(Figures In Crore of Rupees)

| | 2015- 2016 Actuals | 2016- 2017 Budget Estimates | 2016- 2017 Revised Estimates | 2017- 2018 Budget Estimates |
|--|--------------------------|--------------------------------------|---------------------------------------|--------------------------------------|
| 1. Revenue Receipts | 1195025 | 1377022 | 1423562 | 1515771 |
| 2. Tax Revenue (net to Centre) | 943765 | 1054101 | 1088792 | 1227014 |
| 3. Non-tax Revenue | 251260 | 322921 | 334770 | 288757 |
| 4. Capital Receipts | 595748 | 601038 | 590845 | 630964 |
| 5. Recoveries of Loans | 20835 | 10634 | 11071 | 11932 |
| 6. Other Receipts | 42132 | 56500 | 45500 | 72500 |
| 7. Borrowings and other Liabilities* | 532791 | 533904 | 534274 | 546532 |
| 8. Total Receipts (1+4) | 1790783 | 1978060 | 2014407 | 2146735 |
| 9. Scheme Expenditure | 725114 | 801966 | 869847 | 945078 |
| 10. On Revenue Account | 545619 | 601900 | 631511 | 674057 |
| 11. On Capital Account | 179495 | 200066 | 238336 | 271021 |
| 12. Expenditure on other than Schemes (13+15) | 1065669 | 1176094 | 1144560 | 1201657 |
| 13. On Revenue Account | 992142 | 1129137 | 1103049 | 1162877 |
| 14. Of which, Interest Payments | 441659 | 492670 | 483069 | 523078 |
| 15. On Capital Account | 73527 | 46957 | 41511 | 38780 |
| 16. Total Expenditure (9+12) | 1790783 | 1978060 | 2014407 | 2146735 |
| 17. On Revenue Accountant (10+13) | 1537761 | 1731037 | 1734560 | 1836934 |
| 18. Of Which, Grants in Aid for creation of Capital Assets | 131754 | 166840 | 171472 | 195350 |
| 19. On Capital Account (11+15) | 253022 | 247023 | 279847 | 309801 |
| 20. Revenue Deficit (17-1) | 342736 | 354015 | 310998 | 321163 |
| | (2.5) | (2.3) | (2.1) | (1.9) |
| 21. Effective Revenue Deficit (20-18) | 210982 | 187175 | 139526 | 125813 |
| | (1.6) | (1.2) | (0.9) | (0.7) |
| 22. Fiscal Deficit {16-(1+5+6)} | 532791 | 533904 | 534247 | 546532 |
| | (3.9) | (3.5) | (3.2) | (3.2) |
| 23. Primary Deficit (22-14) | 91132 | 41234 | 51205 | 23454 |
| | (0.7) | (0.3) | (0.3) | (0.1) |

Note :

1. GDP for BE 2017-2018 has been projected at Rs. 16847455 crore assuming 11.75% growth over the Advance Estimates of 2016-17 (Rs. 15075429 crore) released by CSO.
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)

| | 2015- 2016 Actuals | 2016- 2017 Budget Estimates | 2016- 2017 Revised Estimates | 2017- 2018 Budget Estimates |
|---|--------------------------|--------------------------------------|---------------------------------------|--------------------------------------|
| Revenue Receipts | | | | |
| 1. Tax Revenue | | | | |
| Gross Tax Revenue | 1455648 | 1630888 | 1703243 | 1911579 |
| Corporation Tax | 453228 | 493924 | 493923 | 538745 |
| Taxes on Income | 287637 | 353174 | 353174 | 441255 |
| Wealth Tax | 1080 | --- | --- | --- |
| Customs | 210338 | 230000 | 217000 | 245000 |
| Union Excise Duties | 288073 | 318669 | 387369 | 406900 |
| Service Tax | 211414 | 231000 | 247500 | 275000 |
| Taxes of Union Territories | 3878 | 4121 | 4277 | 4679 |
| | | | | |
| Less – NCCD Transferred to the National Calamity Contingency Fund / National Disaster Response Fund | 5690 | 6450 | 6450 | 10000 |
| Less – States Share | 506193 | 570337 | 608000 | 674565 |
| 1 (a) Centre's Net Tax Revenue | 943765 | 1054101 | 1088793 | 1227014 |
| 2. Non Tax Revenue | 251260 | 322921 | 334770 | 288757 |
| Interest Receipts | 25378 | 29621 | 18149 | 19021 |
| Dividend and Profits | 112127 | 123780 | 153222 | 142430 |
| External Grants | 1881 | 2862 | 2882 | 3060 |
| Other Non-Tax Revenue | 110336 | 165319 | 159115 | 122728 |
| Receipt of Union Territories | 1538 | 1339 | 1402 | 1518 |
| Total Non Tax Revenue | | | | |
| Total Revenue Receipts (1a+2) | 1195025 | 1377022 | 1423563 | 1515771 |
| 3. Capital Receipts | | | | |
| A. Non-debt Receipts | | | | |
| Recoveries of Loans and Advances | 20835 | 10634 | 11071 | 11933 |
| Miscellaneous Capital Receipts | 42132 | 56500 | 45500 | 72500 |
| Total | | 67134 | | |
| B. Debt Receipts | 532791 | 533904 | 534273 | 546531 |
| Total Capital Receipts (A+B) | 595758 | 601038 | 590844 | 630965 |
| Total Receipts (1a+2+3) | 1790783 | 1978060 | 2014407 | 2146735 |
| 4. DRAW-DOWN OF CASH BALANCE | 13170 | 13195 | 40227 | 12844 |
| Receipts under MSS (Net) | --- | 20000 | --- | --- |

EXPENDITURE

| | | 2015- 2016 Actuals | 2016- 2017 Budget estimates | 2016- 2017 Revised Estimates | 2017- 2018 Budget Estimates |
|-----------|---|--------------------------|--------------------------------------|---------------------------------------|--------------------------------------|
| A. | Central Expenditure | | | | |
| I | Establishment Expenditure of Centre | 334870 | 389855 | 406711 | 437538 |
| II | Central Sector Schemes/Projects | 521374 | 570066 | 624411 | 666644 |
| III | Other Central Sector Expenditure | 592909 | 641121 | 585589 | 619225 |
| | a. Statutory and Regulatory Bodies | 5818 | 6124 | 6196 | 6482 |
| | b. Autonomous Bodies | 41939 | 47863 | 49331 | 60278 |
| | c. Public Sector Undertakings | 9696 | 5703 | 8090 | 4639 |
| | d. Public Sector Banks | 25000 | 25000 | 25000 | 10000 |
| | e. Financial Institutions | 1627 | 1140 | 1905 | 4068 |
| | f. Others | 508829 | 555292 | 495066 | 533758 |
| B. | Centrally Sponsored Schemes and other Transfer | | | | |
| IV | Centrally Sponsored Schemes | 203741 | 231900 | 245435 | 278433 |
| V | Finance Commission Grants | 84579 | 100646 | 99115 | 103101 |
| VI | Other Grants/Loans/Transfers | 53310 | 44472 | 53146 | 41794 |
| | | | | | |
| | Grand Total | 1790783 | 1978060 | 2014407 | 2146735 |

- (i) The Establishment Expenditures of the Centre includes all the establishment related expenditure of the Ministries/Departments and includes establishment expenditure on attached and subordinate offices.
- (ii) The Central Sector Schemes includes all schemes which are entirely funded and implemented by the Central Agencies.
- (iii) The Other Central Expenditure includes provisions made for the Central expenditure on PSUs, Autonomous Bodies etc. and other expenditure not covered in the category of schemes or establishment expenditure.

- (iv) The Centrally Sponsored Schemes will include the schemes so decided by the Report of the Sub-Group of Chief Ministers on Rationalization of Centrally Sponsored Schemes as approved by the Cabinet on 3.8.2016.
- (v) The category Finance Commission Transfers in the demand titled "Transfers to States" The category Other Transfers to States will include all other transfers to States such those made under National Disaster Relief Fund, Assistance to schemes under proviso(i) to Article 275(1) of the Constitution.

INCOME TAX PROPOSALS**Proposed rates of Income Tax for A.Y. 2018-2019****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 2018-19 are the same as were applicable to Assessment Year 2017-18.

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 2018-2019 are the same as were applicable to Assessment Year 2017-2018.

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 2018-2019 are the same as were applicable to Assessment Year 2017-2018.

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 2015-16 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 2016-17.

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 2017-18, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent. respectively, 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 (42-A) – DEFINITION OF SHORT TERM CAPITAL ASSET AMENDED - INCENTIVES FOR PROMOTING INVESTMENT IN IMMOVABLE PROPERTY

i) According to the existing provisions in the case of immovable properties being land, building or both, an assessee is required to hold the asset for more than 36 months in order to qualify it as a long term asset. It is proposed to modify the provisions by reducing the required period of holding from the existing 36 months to 24 months. - **w.e.f - 1st April, 2018.**

ii) According to the proposed provisions in the section 47(xb), any transfer of preference shares of a company by way of conversion into equity shares of the company will not be considered as transfer. Consequential clause is proposed that period for which the preference shares were held by the assessee will be included in the holding period.

The amendment will be effective from 1st April 2018.

iii) According to the existing provisions contained in section 47(xix), transfer of a unit of a capital asset in the consolidating plan of mutual fund scheme of the unit holder is not considered as a transfer. It is proposed to include the period of holding of the unit by the unit holder in the holding period.

The amendment will be effective from 1st April 2018.

SECTION – 9 – INCOME DEEMED TO ACCRUE OR ARISE IN INDIA - CLARITY RELATING TO INDIRECT TRANSFER PROVISIONS

According to the existing provisions contained in Explanation 5 under section 9(1)(i), an asset or capital asset being any shares or interest in company or any share or interest in a company or any entity registered or incorporated outside India shall be deemed to be situated in India if the shares or interest derives directly or indirectly its value substantially from the assets located in India.

It is proposed to provide that the said explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by the non-resident directly or indirectly in a specified foreign Institutional Investor registered as Foreign Portfolio investor under the SEBI Regulations.

The amendment will be effective from 1st April 2018.

SECTION - 9-A - MODIFICATION IN CONDITIONS OF SPECIAL TAXATION REGIME FOR OFF SHORE FUNDS UNDER SECTION 9A

The existing provisions contain certain conditions for the eligibility of off-shore funds for which the activity of fund management carried out through an eligible fund manager shall not constitute business connection in India. These conditions are as to residence of Fund, it's corpus, payment of remuneration to fund Manager etc. As regards corpus it is also provided that monthly average of the corpus of the fund shall not be less than Rs. 100 crore and in the case of newly set up funds, the corpus shall not be less than Rs. 100 Crore at the end of the year.

It is proposed to provide that in the previous year in which the fund is wound up the conditions that the monthly average of the corpus shall not be less than Rs. 100 Crore shall not apply.

The amendment will be effective from 1st April 2016.

SECTION – 10(12A) - TAX-EXEMPTION TO PARTIAL WITHDRAWAL FROM NATIONAL PENSION SYSTEM (NPS)

Any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made thereunder will be exempted, to the extent it does not exceed twenty five per cent of the amount of contributions made by him.

SECTION – 10(23-C) & 11 - RESTRICTION ON EXEMPTION IN CASE OF CORPUS DONATION BY EXEMPT ENTITIES TO OTHER EXEMPT ENTITIES

As per the existing provisions of the Act, donations made by a trust to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-

clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, except those made out of accumulated income, is considered as application of income for the purposes of its objects.

Similarly, donations made by entities exempted under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 to any trust or institution registered under section 12AA, except those made out of accumulated income, is also considered as application of income for the purposes of its objects.

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

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

It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income. - 1st April, 2018

SECTION - 10 (37-A) - TAX INCENTIVE FOR THE DEVELOPMENT OF CAPITAL OF ANDHRA PRADESH

The new capital of Andhra Pradesh is being constructed by land pooling mechanism without the use of Land Acquisition Act.

It is proposed to provide relief to an Individual or HUF who was the owner of such land as on 02.06.2014 and has transferred such land by inserting of new sub-clause 37-A to provide that in respect of such persons capital gains arising from specified transfer shall not be chargeable to tax.

SECTION - 10(38) - EXEMPTION OF LONG TERM CAPITAL GAINS TAX U/S 10(38)

According to existing provisions, capital gains arising from the transfer of shares of a company or unit of the equity oriented fund is exempt if security transaction tax is paid.

In order to prevent sham transaction, it is proposed to provide that exemption will be made available to the transfer of equity shares acquired after 1st October, 2004 if the shares had been acquired after STT has been paid on the transaction. It is proposed to issue notification to provide that this condition will not apply to the shares acquired in IPO, FPO, Right issues of a listed company acquisition by non-resident in accordance with the FDI policy of government.

SECTION 10-AA - RATIONALISATION OF PROVISIONS OF SECTION 10AA

Under the existing provisions deduction is allowed to an assessee from his the total income in respect of profits and gains from his Unit operating in SEZ, subject to certain conditions.

However, certain courts have taken a view (in matters pertaining to section 10A which also contains similar provision) that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.

In view of the above, it is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA in no case shall exceed the said total income.

The amendment will be effective from 1st April 2018.

SECTION - 12A - CLARITY OF PROCEDURE IN RESPECT OF CHANGE OR MODIFICATIONS OF OBJECT AND FILING OF RETURN OF INCOME IN CASE OF ENTITIES EXEMPT UNDER SECTIONS 11 AND 12

The existing provisions provide for conditions for applicability of sections 11 and 12 in relation to the benefit of exemption in respect of income of any trust or institution.

Section 12AA of the Act provides for registration of the trust or institution which entitles them to the benefit of sections 11 and 12 and the circumstances under which registration can be cancelled, one such being satisfaction of the Principal Commissioner or Commissioner that its activities are not genuine or are not being carried out in accordance with its objects subsequent to grant of registration. However, at present there is no explicit provision in the Act which mandates said trust or institution to approach for fresh registration in the event of adoption or undertaking modifications of the objects after the registration has been granted.

Therefore, it is proposed to amend section 12A so as to provide that where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A and, subsequently, it has adopted modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modifications of the objects in the prescribed form and manner.

Further, as per the existing provisions of said section, the entities registered under section 12AA are required to file return of income under sub-section (4A) of section 139, if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not chargeable to income-tax. However, there is no clarity as to whether the said return of income is to be filed within time allowed u/s 139 of the Act or otherwise.

In order to provide clarity in this regard, it is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.

The amendment will be effective from 1st April 2018.

SECTION 13-A - TRANSPARENCY IN ELECTORAL FUNDING -

According to existing provisions, income received by a political party from House Property, other sources, capital gains and voluntary contributions is exempt subject to certain conditions.

It is proposed to provide that no donation of Rs. 2,000/- or more is received otherwise than by account payee cheque. Return of income should be filed u/s. 139(4-B) by due date.

The amendment will be effective from 1st April 2018.

SECTION - 23 - NOTIONAL INCOME FOR HOUSE PROPERTY HELD AS STOCK-IN-TRADE

It is proposed to provide that in respect of unsold property held as stock in trade and not let out, the annual value of the property for the period upto one year from the end of the financial year in which completion certificate is received from competent authority will be taken as Nil. Thereafter it will be assessable as income from property on the basis of its notional rent.

The amendment will be effective from 1st April 2018.

SECTION - 35AD - DISALLOWANCE OF DEPRECIATION UNDER SECTION 32 AND CAPITAL EXPENDITURE UNDER SECTION 35AD ON CASH PAYMENT

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

The existing provisions of Section 35AD of the Act, inter alia provides for investment linked deduction on amount of capital expenditure incurred, wholly or exclusively, the purposes of business, during the previous year for a specified business excluding capital expenditure incurred for acquisition of any land or goodwill or financial instrument. Further sub-section (7B) of Section 35AD provides that where any asset on which benefit of section 35AD is claimed and allowed, is used for a purpose other than specified business, the benefit of deduction already granted under section 35AD shall be deemed to be the income of the assessee. However, it further provides that the deemed income shall be net of normal depreciation as would be entitled.

Clause (1) of section 43 defines "actual cost" for the purposes of claiming depreciation under section 32 of the Act in certain situations. However, there is no clarity on determination of actual cost for the purposes of allowance of depreciation of such assets in respect of which the deduction which is already allowed in a previous year under section 35AD of the Act, is withdrawn in terms of sub-section (7B) of the said section.

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

The amendment will be effective from 1st April 2018.

SECTION – 36 - INCREASE IN DEDUCTION LIMIT IN RESPECT OF PROVISION FOR BAD AND DOUBTFUL DEBTS

According to existing provisions, certain types of banks are allowed deduction in respect of provisions for bad and doubtful debts limited 7 ½ % of the total income and amount not exceeding 10% of aggregate average advances made by rural branches of such bank.

It is proposed to increase the said limit from 7 ½ % to 8 ½ %.

The amendment will be effective from 1st April 2018.

SECTION – 40A - MEASURES TO DISCOURAGE CASH TRANSACTIONS

The existing provision of sub-section (3) of Section 40A of the Act, provides that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, shall not be allowed as a deduction. Further, sub-section (3A) of section 40A also provides for deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the payment is made in any subsequent year of a sum exceeding twenty thousand rupees otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

In order to disincentivise cash transactions, it is proposed to amend the provision of section 40A of the Act to provide the following:

- (i) To reduce the existing threshold of cash payment to a person from twenty thousand rupees to ten thousand rupees in a single day; i.e any payment in cash above ten thousand rupees to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";
- (ii) Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding ten thousand rupees to a person in a single day; and
- (iii) Further expand the specified mode of payment under respective sub-section of section 40A from an account payee cheque drawn on a bank or account payee bank draft to by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account.

The amendment will be effective from 1st April 2018.

SECTION – 40-A(3) – MEASURES TO DISCOURAGE CASH TRANSACTIONS

According to the existing provision, payment or aggregate payments made to a person in a day otherwise than by account payee cheque exceeding Rs. 20,000/- is not allowed as deduction.

It is proposed that the threshold limit will be reduced from Rs. 20,000/- to Rs. 10,000/-. If any expenditure is incurred in a particular year for which payment exceeding Rs. 10,000/- is made in subsequent year otherwise than by account payee cheque, it will be deemed to be profit and gains of business.

Specific mode to payment is extended to cover use of electronic clearing system through a bank account.

SECTION – 43 – RESTRICTION ON CASH PAYMENT FOR ACQUISITION OF ANY ASSET.

Under the existing provisions of the Act, there is no provision to disallow the capital expenditure incurred in cash. Further, section 35AD of the Act, inter-alia provides for investment linked deduction on the amount capital expenditure incurred, wholly or exclusively for the purposes of business, during the previous year for a specified business except capital expenditure incurred for acquisition of any land or goodwill or financial instrument.

It is proposed to amend the provisions of section 43 of the Act to provide that where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost of such asset.

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

The amendment will be effective from 1st April 2018.

SECTION – 43-D - EXTENSION OF SCOPE OF SECTION 43D TO CO-OPERATIVE BANKS

According to existing provisions interest income in relation to certain categories of bad or doubtful debts of certain banks or companies etc. shall be chargeable to tax in the year in which it is credited to P & L Account or actually received which even is earlier.

It is proposed to extend this scope of this provisions to certain types of Co-op. Banks. As a consequential measure, the interest payable on such bad or doubtful debts will be allowable on actual payment if actually paid on or before the due date of furnishing the return of relevant previous year.

The amendment will be effective from 1st April 2018.

SECTION – 44-AA - INCREASING THE THRESHOLD LIMIT FOR MAINTENANCE OF BOOKS OF ACCOUNTS IN CASE OF INDIVIDUALS AND HINDU UNDIVIDED FAMILY

According to the existing provisions, every person being Individual or HUF carrying on business or profession (excepting specified category) and whose income gross receipts exceed Rs. 1,20,000/- / Rs. 10,00,000/- respectively is received to maintain books of account.

It is proposed to increase the threshold limit to Rs. 2,50,000/- and Rs. 25,00,000/- respectively.

The amendment will be effective from 1st April 2018.

SECTION – 44-AB - EXCLUSION OF CERTAIN SPECIFIED PERSON FROM REQUIREMENT OF AUDIT OF ACCOUNTS UNDER SECTION 44AB

According to existing provisions every person carrying on business is required to get his accounts audited if the total sales exceeded Rs. 2,00,00,000/-.

It is proposed to insert a proviso to provide that the above requirement will not apply to a person whose gross receipts do not exceed Rs. 2,00,00,000/- and who declares profits in accordance with presumptive basis u/s. 44AD(1).

SECTION – 44-AD(1) - PRESUMPTIVE TAXATION

Existing provisions provide for presumptive taxation in the case of eligible assessee having turnover of less than Rs. 2,00,00,000/-. A sum equal to 8% to the turnover or as the case may be a sum higher than the said sum declared by the assessee will be deemed to be the profits chargeable to tax.

It is proposed to reduce the existing rate of deemed income from 8% to 6% of the gross receipt received by account payee cheque or use of electronic clearing system through bank account.

However, the existing rate of 8% will apply in respect of total turnover received in any other mode.

The amendment will be effective from 1st April 2017.

SECTION – 45(5A) - SPECIAL PROVISIONS FOR COMPUTATION OF CAPITAL GAINS IN CASE OF JOINT DEVELOPMENT AGREEMENT

It is proposed to provide that in the case of an assessee being Individual or HUF entering in to Joint agreement for development of a project, Capital gains will be chargeable to tax in the previous year when competent authority issues certificate of completion for the whole/ part of the project.

Stamp Duty value of his share in the immovable property on the date of issue of completion certificate increased by the monetary consideration received by him shall be deemed to be the consideration.

If any assessee transfer his share in the property before completion, capital gain will be computed under general provisions of the act in the year of transfer without taking into account above new provisions.

The amendment will be effective from 1st April 2018.

SECTION - 47 - TAX NEUTRAL CONVERSION OF PREFERENCE SHARES TO EQUITY SHARES -

Finance Act,2016 amended section 47 of the Act so as to provide tax neutrality to the transfer of units in a consolidating plan of mutual fund scheme made in consideration of the allotment of units in the consolidated plan of that mutual fund scheme.

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

The amendment will be effective from 1st April 2017.

SECTION - 48 - EXTENSION OF CAPITAL GAIN EXEMPTION TO RUPEE DENOMINATED BONDS -

In order to provide relief in respect of gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company to secondary holders as well, it is proposed to amend section 48 providing that the said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.

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

The amendment will be effective from 1st April 2018.

SECTION - 48-B - EXEMPTION OF INCOME OF FOREIGN COMPANY FROM SALE OF LEFTOVER STOCK OF CRUDE OIL FROM STRATEGIC RESERVES AT THE EXPIRY OF AGREEMENT OR ARRANGEMENT

According to existing provisions income arising to foreign company on account of sale of crude oil stored in India shall be exempt if the sale is in pursuant to agreement with government.

It is proposed that income arising on sale of left-over stock of such crude oil after the expiry of the agreement will also be exempt as per conditions to be notified by the government.

SECTION – 49 -COST OF ACQUISITION IN TAX NEUTRAL DEMERGER OF A FOREIGN COMPANY -

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

It is proposed to amend section 49 so as to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

The amendment will be effective from 1st April 2018.

SECTION - 50-CA - FAIR MARKET VALUE TO BE FULL VALUE OF CONSIDERATION IN CERTAIN CASES -

Under the existing provisions of the Act, income chargeable under the head "Capital gains" is computed by taking into account the amount of full value of consideration received or accrued on transfer of a capital asset. In order to ensure that the full value of consideration is not understated, the Act also contained provisions for deeming of full value of consideration in certain cases such as deeming of stamp duty value as full value of consideration for transfer of immovable property in certain cases.

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

The amendment will be effective from 1st April 2018.

SECTION - 54 EC - EXPANDING THE SCOPE OF LONG TERM BONDS

Section 54EC provides that capital gain to the extent of Rs. 50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time. Currently, investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.

It is proposed that the scope of this section may be expanded to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption :

The amendment will be effective from 1st April 2018.

SECTION - 55 - SHIFTING BASE YEAR FROM 1981 TO 2001 FOR COMPUTATION OF CAPITAL GAINS -

Section 55 provides that for computing of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any.

However, for computing capital gains in respect of an asset acquired before 01.04.1981, the assessee has been allowed an option of either to take the fair market value of the asset as on 01.04.1981 or the actual cost of the asset as cost of acquisition. The assessee is also allowed to claim deduction for cost of improvement incurred after 01.04.1981, if any.

Since more than three decades have passed since the base year has been adopted, assesseees are facing genuine difficulties in computing the capital gains in respect of a capital asset, especially in the case of an immovable property acquired before 01.04.1981 due to non-availability of relevant information for computing of fair market value of such asset as on 01.04.1981.

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

In order to align the provisions relating to cost inflation index to the proposed base year, consequential amendment is also proposed in section 48.

The amendment will be effective from 1st April 2018.

SECTION - 56 - WIDENING SCOPE OF INCOME FROM OTHER SOURCES :-

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

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

The existing definition of property for the purpose of this section includes immovable property, jewellery, shares, paintings, etc. These anti-abuse provisions are currently applicable only in case of individual or HUF and firm or company in certain cases. However, currently the receipt of sum of money or property without consideration or for inadequate consideration is not applicable for other assesses.

In order to increase the scope of applicability of this section, it is proposed to insert 56 (2) (x) to include any person instead of individuals and HUF. However, it is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

The amendment will be effective from 1st April 2017.

SECTION - 58 - DISALLOWANCE FOR NON-DEDUCTION OF TAX FROM PAYMENT TO RESIDENT -

Existing provisions of section 58 of the Act, specify the amounts which are not deductible in computing the income under the head "Income from other sources" which include certain disallowances made in computation of income under the head "Profits and gains of business or profession". These disallowances include disallowances such as disallowance of cash expenditure, disallowance for non-deduction of tax from payment to non-resident, etc.

For computing income under the head "Profits and gains of business or profession", a disallowance is made for non-deduction of tax from payment to resident also. With a view to improve compliance of provision relating to tax deduction at source (TDS), it is proposed to amend the said section so as to provide that provisions of section 40(a)(ia) shall, so far as they may be, apply in computing income chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "Profit and gains of business or Profession".

The amendment will be effective from 1st April 2018.

SECTION - 71 - RESTRICTION ON SET-OFF OF LOSS FROM HOUSE PROPERTY -

The existing provisions relate set-off of loss from one head against income from another. It is proposed to insert sub-section (3A) in the said section to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to two lakh rupees for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.

The amendment will be effective from 1st April 2018.

SECTION - 79 - CARRY FORWARD AND SET OFF OF LOSS IN CASE OF CERTAIN COMPANIES -

According to the existing provisions where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, loss shall not be carried forward and set off unless on the last day of the previous year the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by person who beneficially held shares of the

company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.

It is proposed to amend section 79 of the Act to provide that where a change in shareholding has taken place in a previous year in the case of the said company, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

The amendment will be effective from 1st April 2018.

SECTION – 80CCD - RATIONALISATION OF DEDUCTION UNDER SECTION 80CCD FOR SELF-EMPLOYED INDIVIDUAL -

The existing provisions of section 80CCD provides that employee or other individuals shall be allowed a deduction for amount deposited in National Pension System trusts (NPS). The deduction under section 80CCD (1) cannot exceed 10% of salary in case of an employee or 10% of gross total income in case of other individuals. However, under the provisions of section 80CCD (2) of the Act, further deduction to an employee in respect of contribution made by his employer is allowed up to 10% of salary of the employee. Thus, in case of an employee, the deduction allowed under section 80CCD adds up to 20% of salary whereas in case of other individuals, the total deduction under section 80CCD is limited to 10% of gross total income.

In order to provide parity between an individual who is an employee and an individual who is self-employed, it is proposed to amend section 80CCD so as to increase the upper limit of ten per cent of gross total income to twenty per cent in case of individual other than employee.

The amendment will be effective from 1st April 2018.

SECTION - 80CCG - RATIONALIZATION OF DEDUCTION

Under the existing provisions of section 80CCG, deduction for three consecutive assessment years is allowed upto Rs. 25,000 to a resident individual for investment made in listed equity shares or listed units of an equity oriented fund subject to fulfilment of certain conditions. It is proposed to phase out this deduction by providing that no deduction under section 80CCG shall be allowed from assessment year 2018-19. However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20 if he is otherwise eligible to claim the deduction as per the provisions of this section.

The amendment will be effective from 1st April 2018.

SECTION 80-G - EXEMPTION OF INCOME OF CHIEF MINISTER'S RELIEF FUND OR THE LIEUTENANT GOVERNOR'S RELIEF FUND

Under the existing provisions of section 80G, deduction is not allowed in respect of donation made of any sum exceeding Rs.10,000, if the same is not paid by any mode other than cash.

It is proposed to amend section 80G so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.

The amendment will be effective from 1st April 2018.

SECTION 80-IAC - CARRY FORWARD AND SET OFF OF LOSS IN CASE OF CERTAIN COMPANIES -

The existing provisions inter alia, provide that an eligible start-up shall be allowed a deduction of an amount equal to one hundred per cent of the profits and gains derived from eligible business for three consecutive assessment years out of five years beginning from the year in which such eligible start-up is incorporated.

As start-ups may take time to derive profit out of their business, it is proposed to provide that deduction under section 80-IAC can be claimed by an eligible start-up for any three consecutive assessment years out of seven years beginning from the year in which such eligible start-up is incorporated.

The amendment will be effective from 1st April 2018.

SECTION - 80-IBA - RATIONALISATION TO PROMOTE AFFORDABLE HOUSING -

According to existing provisions 100% deduction is admissible from of the profits and gains derived from developing and building certain housing projects subject to specified conditions.

In order to promote the development of affordable housing sector, it is proposed to amend section 80-IBA so as to provide the following relaxations:—

- (i) The size of residential unit will be in terms of the "carpet area" not the "built-up area".
- (ii) The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of four metro cities.
- (iii) The condition of period of completion of project shall be increased from existing three years to five years.

The amendment will be effective from 1st April 2018.

SECTION - 90 & 90A- CLARIFICATION WITH REGARD TO INTERPRETATION OF 'TERMS' USED IN AN AGREEMENT ENTERED INTO -

Where any term is used in the Double Tax Avoidance Agreement which has not been defined in the treaty or in the Act, the existing law provides that the meaning assigned to it in the notification issued by the Central Govt. shall be adopted. The amendment seeks to clarify that in case the term is not defined under the agreement but is defined in the Act, it shall be assigned the meaning as per the Act or any explanation issued by the Central Govt.

The amendment will take effect from 1st April 2018 relevant to assessment year 2018-19 and subsequent years.

SECTION - 92 BA - SCOPE OF SECTION 92BA OF THE INCOME-TAX ACT RELATING TO SPECIFIED DOMESTIC TRANSACTIONS -

The existing provisions provide that the transactions which are specified domestic transactions will be subject to arm's length pricing in the same manner as the transfer pricing of international transactions. The transactions which are specified domestic transactions include any expenditure in respect of which payment has been made by the assessee to the persons specified under section 40A(2)(b). The amendment proposed deletes this type of transactions from specified domestic transactions with the result that such transactions will not be subject to transfer pricing regulations under this section.

SECTION - 92CE - SECONDARY ADJUSTMENTS IN CERTAIN CASES -

It is a new provision sought to be inserted for the purpose of aligning the transfer pricing provisions with the OECD guidelines. Where transfer pricing adjustment has been made which results in increase in the total income or reduction in loss and such adjustment is either made by the assessee suo moto or accepted by him or determined as per advance pricing agreement or safe harbour rule or arises as a result of resolution under mutual agreement procedure, the assessee and the associated enterprise can make secondary adjustment in their books. The increase in profit will be taken as an advance to the associated enterprise and in case the same is not repatriated to India, the notional interest will be computed in the prescribed manner.

The provision will not apply if the amount of adjustment does not exceed Rs.1 Crore and the same is made in respect of assessment year 2016-17 or earlier years.

The amendment takes effect from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 94B - LIMITATION OF INTEREST DEDUCTION IN CERTAIN CASES -

This is a new provision proposed to be inserted which seeks to provide remedy for thin capitalization and is in line with the recommendations of OECD BEPS Action plan. It provides that interest expenses claimed by an

entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization or interest paid or payable to the associated enterprise, whichever is less. The provision will apply to an Indian company or a permanent establishment of a foreign company who is the borrower.

The provision also allow for carry forward of disallowed interest expense to 8 assessment years immediately succeeding the assessment year for which the disallowance was made.

It will not apply to a case where the interest does not exceed Rs.1Crore and also to banks and those who are carrying on insurance business
The amendment will take effect from 1st April 2018 and will accordingly apply in relation to assessment year 2018-19.

SECTION - 115BBDA - RATIONALIZATION OF TAXATION OF INCOME BY WAY OF DIVIDEND -

Vide Finance Act, 2016 a provision was made for taxing those individuals, Hindu Undivided Families or Firms whose income includes income by way of dividend aggregating more than Rs.10 Lakhs. Such persons are to be taxed at the rate of 10% of the amount of dividend exceeding Rs.10 Lakhs. The scope of this section is proposed to be extended by making it applicable to all residents except domestic companies, funds or trusts, universities, educational institutions or medical institutions whose income is exempt from tax. The amendment will bring within the scope of taxation all private trusts which have made investment in shares and deriving dividend therefrom exceeding Rs.10 Lakhs.

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

SECTION - 115BBG - INCOME FROM TRANSFER OF CARBON CREDITS -

This is a new provision which deals with the assessment of Carbon credits. So far such credits are being treated as business income subject to tax at 30%. Divergent decisions have been given by the courts as to whether such credit is a revenue receipt or capital receipt. The provision seeks to clarify that where the total income of the assessee includes income by way of transfer of carbon credits, such income shall be taxable at the concessional rate of 10% on the gross amount of such income.

The amendment takes effect from 1st April 2018 relevant to assessment year 2018-19

SECTION - 115JAA AND 115JD - RATIONALISATION OF PROVISIONS RELATING TO TAX CREDIT FOR MINIMUM ALTERNATE TAX AND ALTERNATE MINIMUM TAX -

Under the existing provision tax credit in respect of MAT/AMT can be carried forward upto 10th assessment year. The amendment seeks to

provide that the tax credit determined under this section can be carried forward upto 15th assessment year immediately succeeding the assessment year in which such credit is allowable.

It is also proposed to amend the section so as to provide that the amount of tax credit in respect of MAT/AMT shall not be allowed to the extent such credit relates to the difference between the amount of Foreign Tax credit allowed and the Foreign Tax credit allowable against the tax computed under the regular provisions.

The amendment will take effect from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 115JB - RATIONALISATION IN LINE WITH INDIAN ACCOUNTING STANDARD (IND-AS) -

The provision is sought to be amended in consequence of the introduction of Indian Accounting Standards and seeks to provide the framework for computation of book profit for Indian Accounting Standard compliant companies in the year of adoption and thereafter.

As the Indian AS is required to be adopted by certain companies for financial year 2016-17 mandatorily, the amendment will take effect from 1st April 2017 relevant to assessment year 2017-18.

SECTION -119 - EMPOWERING BOARD TO ISSUE DIRECTIONS IN RESPECT OF PENALTY FOR FAILURE TO DEDUCT OR COLLECT TAX AT SOURCE -

This provision authorises the Central Board of Direct Taxes to issue instructions to other income tax authorities for proper administration of the Act and such directions are binding on the authorities. Without prejudice to the generality of the power, sub section(2) specifies certain sections in respect of which instructions can be issued for efficient management of the work of assessment and collection. The proposed amendment seeks to include sections 271C and 271CA in respect of which instructions can be issued by the CBDT. These sections deals with penalties for failure to deduct tax at source and for failure to collect tax at source.

SECTION 132 AND 132A - RATIONALISATION OF THE PROVISIONS IN RESPECT OF TIME LIMITS FOR COMPLETION OF SEARCH ASSESSMENT

The amendment seeks to ensure confidentiality of the reasons recorded by the authorities for resorting to the provisions of search and seizure. The law requires the 'reason to believe' or 'reason to suspect' to be recorded before any search can be undertaken. The certain judicial pronouncements have held that such reasons should be disclosed to the person or the authority, if so demanded. The amendment declares that the 'reason to believe' or 'reason to suspect' shall not be disclosed to any person or any authority or even to Appellate Tribunal.

Another amendment is proposed enabling the authorized officers to provisionally attach any property belonging to the assessee if he is satisfied that for the purpose of protecting the interest of revenue it is necessary to do so. Before doing so he will have to take the previous approval of the

Principal Director General or Director General or the Principal Director or Director and such attachments shall cease to have effect after the expiry of 6 months from the date of the order.

The amendments will be effective retrospectively from 01.04.1962 in case of search under section 132 and from 01.10.1975 in case of action under section 132(1A) and 132A.

SECTION – 133 - RATIONALISATION OF THE PROVISIONS IN RESPECT OF POWER TO CALL FOR INFORMATION -

Under the existing provisions certain Income tax authorities are empowered to call for information for the purpose of any enquiry or proceeding under the Act. In case no proceeding is pending such power cannot be exercised by any Income tax authority below the rank of Principal Director or Director or the Principal Commissioner or Commissioner without the previous approval of such authorities.

The amendment seeks to include Joint Director, Deputy Director and the Assistant Director in the authorities competent to exercise the power. It also dispenses with the requirement of seeking prior approval of the Principal Commissioner or Commissioner in case no proceedings are pending.

The amendment will be effective from 1st April 2017.

SECTION -133A - EXTENSION OF THE POWER TO SURVEY -

This section empowers the prescribed Income tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession. The amendment seeks to empower the CBDT to make scheme for centralized issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome available to the assessing officer for necessary action.

The amendment will be effective from 1st April 2017.

SECTION – 139 - MANDATORY FURNISHING OF RETURN BY CERTAIN EXEMPT ENTITIES -

The existing provision of section 139(4C) mandates filing of return by certain tax exempt entities. In order to verify that the entities enjoying exemptions under section 10 are actually carrying out the activities for which exemption has been provided, the amendment seeks to provide that any person enjoying exemption under section 10(23AAA), Investor Protection Fund referred to in section 10(23EC) or (23ED), Core Settlement Guarantee Fund referred to in section 10(23EE) and any Board or Authority referred to in section 10 (29A) shall also be mandatorily required to furnish the return.

The amendment will take effect from 1st April 2018 relevant to assessment year 2018-19

SECTION - 140A - FEE FOR DELAYED FILING OF RETURN -

A provision is sought to be inserted to provide a fee for delay in furnishing the return from the assessment year 2018-19 onwards if the return is not filed within the due dates under section 139(1). The provision will not be applicable where the total income does not exceed Rs.5 Lakhs. A consequential amendment is proposed to be made in section 140A to provide that in case of delay in furnishing the return fees for delay shall also be payable alongwith tax and interest.

The amendment will take effect from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 143 - PROCESSING OF RETURN WITHIN THE PRESCRIBED TIME AND ENABLE WITHHOLDING OF REFUND IN CERTAIN CASES -

Consequential amendment for levy of fees as mentioned above is also proposed to be made in section 143(1) to provide that in computation of amount payable or refund due on account of processing of returns, the fee payable shall also be taken into account.

The amendment will take effect from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 153 - RATIONALISATION OF TIME LIMITS FOR COMPLETION OF ASSESSMENT, REASSESSMENT AND RE-COMPUTATION AND REDUCING THE TIME FOR FILING REVISED RETURN -

The existing provision specify time limit for completion of assessment, reassessment and recomputation of cases mentioned therein. The amendment seeks to provide that the for the assessment year 2018-19, the time limit for making an assessment order under section 143 or 144 shall be reduced from existing 21 months to 18 months from the end of the assessment year, and for the assessment year 2019-20 and onwards the said time limit shall be 12 months from the end of the assessment year in which the income was first assessable.

Time limit for making the order of assessment, reassessment and recomputation under section 147 in respect of notices served under section 148 on or after 1st April 2019 shall be 12 months from the end of the financial year in which the notice is served.

Time limit for making a fresh order in pursuance of an order under section 254,263 and 264 passed or received in financial year 2019-20 onwards shall be 12 months from the end of the financial year in which orders under section 254,263 or 264 is passed.

These amendments will take effect from 1st April 2017.

Where an order under section 250,254,260,262,263 or 264 requires verification of any issue by way of submission of any document or where an

opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessments as stated above shall be the same.

The existing subsection (9) of section 153 provides that where the order of assessment or reassessment was made before 01.06.2016 the provisions relating to the time limit as existing before the commencement of Finance Act, 2016 will apply. The amendment clarifies that if the notice was issued prior to 01.06.2016 and assessment could not be completed due to the extended time as mentioned in explanation 1 to the section, still the provisions as existing before the commencement of Finance Act, 2016 will apply.

These amendments will take effect from 1st June 2016.

SECTION - 153A AND 153C - RATIONALISATION OF THE PROVISIONS IN RESPECT OF TIME LIMITS FOR COMPLETION OF SEARCH ASSESSMENT -

When Income Declaration Scheme was launched, section 197(c) of the Finance Act, 2016 provided that in case one fails to make a declaration under the Scheme and it is found that any income has accrued or received or any asset has been acquired out of such income in any year such income shall be deemed to have accrued arisen or received in the year in which notice under section 143(1), 143(2), 148, 153A or 153C for assessment was issued. In other words, all the existing limits for reopening of assessments were not applicable and assessment could be made in any year in which notice is issued.

The Finance Bill, 2017 withdraws such provision by omitting clause (c) of section 197 of the Finance Act 2016. However, the provisions of section 153A and 153C are proposed to be amended to provide that where tangible evidence is found during the search and the escaped income is represented in the form of undisclosed investment, notice under section 153A/153C can be issued for an assessment year or years beyond the existing 6 assessment years upto the 10th assessment year. This is subject to the condition that –

- a) AO has in his possession books or documents or any other evidence showing that the amount of escaped income is likely to be Rs.50 lakhs or more in one year.
- b) Such income is represented in the form of asset
- c) The income escaping assessments or part thereof relates to such year or years.

The amendment will be effective from 1st April 2017.

SECTION - 153B -

The amendment seeks to provide that where a notice under section 153A or Section 153C has been issued prior to 01.06.2016 and the assessment has not been completed by such date due to the permitted extended time mentioned in explanation 1, such assessments shall be completed in

accordance with the provisions of sections as they stood before the commencement of Finance Act, 2016.

The amendment takes effect retrospectively from 01.06.2016.

SECTION – 155 - ENABLING CLAIM OF CREDIT FOR FOREIGN TAX PAID IN CASES OF DISPUTE –

Existing provisions of section 155 provide for power to amend the assessment orders in case of certain specified circumstances. Sometimes the foreign tax credit is not allowed to the assessee for the reason that the payment of foreign tax was in dispute. The amendment empowers the assessing officer to rectify the assessment order if the assessee furnishes proof of settlement of disputes within 6 months from the end of the month in which the dispute is settled. The assessee has also to submit evidence that the foreign tax liability has been discharged and an undertaking that credit of such taxes has not been claimed and will not be claimed in any other assessment year.

The amendment takes effect from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 194IB - DEDUCTION OF TAX AT SOURCE IN THE CASE OF CERTAIN INDIVIDUALS AND HINDU UNDIVIDED FAMILY -

Under the existing law, tax is to be deducted at source from payment of rent if the amount of rent exceeds Rs.1,80,000/- in a year. The provision is applicable also to individuals or Hindu undivided Families who are liable for Tax Audit under section 44AB. Individuals and HUFs who are not subjected to audit are exempt from the obligation to deduct tax at source.

This new section is sought to be inserted making individuals and HUFs not subject to audit under section 44AB liable to deduct tax at source out of income by way of rent if the amount of rent exceeds Rs.50000/- per month or part thereof. The tax is to be deducted at the rate of 5% of the amount of rent.

It is also provided that such deduction shall be only once in the financial year and will be made out of rent for the last month of the previous year or the last month of the tenancy if the premises is vacated during the year. Where the tax is to be deducted under section 206AA because of non furnishing of PAN by the deductee, it is provided that the amount of tax to be deducted shall not exceed the rent payable for the last month.

The deductor in such cases shall not be required to obtain TAN.

Amendment will be effective from 1st June 2017.

SECTION – 194-IC - SPECIAL PROVISIONS FOR COMPUTATION OF CAPITAL GAINS IN CASE OF JOINT DEVELOPMENT AGREEMENT -

This is also a new provision which relates to TDS obligation under the development agreement. In case of development agreements, the owner of land or building or both transfers the development right to the developer for consideration in kind or cash or both, the proposed provision provides for deduction of tax at source if the consideration is paid by the builder to the owner of land or building not in kind. The tax is to be deducted at the time of payment or credit at the rate of 10% of the amount.

SECTION - 194J - SIMPLIFICATION OF THE PROVISIONS OF TAX DEDUCTION AT SOURCE IN CASE FEES FOR PROFESSIONAL OR TECHNICAL SERVICES –

The existing provisions of this section requires deduction of tax at source at the rate of 10% of the amount paid or payable to a resident by way of fees for professional services or fees for technical services if the sum paid or payable exceeds Rs.30000/- to a person in a year.

The amendment proposes to reduce the rate of tax to 2% from the existing 10% in case of payments to a person engaged only in the business of operation of call centres.

The amendment will be effective from 1st June 2017.

SECTION - 194LA - NON-DEDUCTION OF TAX IN CASE OF EXEMPT COMPENSATION UNDER RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION REHABILITATION AND RESETTLEMENT ACT, 2013

The existing provision provides for TDS at the rate of 10% on the amount of compensation or enhanced compensation on account of compulsory acquisition of any immovable property under any law.

Consequent to the new central law viz. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (RFCTLARR Act), income tax is not be levied on award or agreement subject to the limitations under that Act. Since compensation is not taxable, the question of TDS does not arise. This position was stated by the CBDT in circular no.36/2016 dated 25.10.2016. However, the provision remained in the statute. The amendment now seeks to provide that no deduction shall be made under this section if the compensation is paid under this Act and same is tax exempt under section 96 of that Act.

SECTION - 194LC - EXTENSION OF ELIGIBLE PERIOD OF CONCESSIONAL TAX RATE ON INTEREST IN CASE OF EXTERNAL COMMERCIAL BORROWING AND EXTENSION OF BENEFIT TO RUPEE DENOMINATED BONDS -

The existing provision provides that interest payable to a non resident by an Indian entity on borrowings made by it in foreign currency under loan agreement or by issue of any long term bond will be subject to TDS at 5% only. This is subject to the condition that borrowing is made under the loan agreement before the first day of July 2017. The amendment now seeks to extend the period during which the loan agreement can be made. It is now

provided that the concessional rate of 5% TDS will be available in respect of borrowings made before 01.07.2020.

The amendment is effective from 1st April 2018 relevant to assessment year 2018-19.

SECTION - 194LD – EXTENSION OF ELIGIBLE PERIOD OF CONCESSIONAL TAX RATE-

The existing provision provides for TDS at 5% in case of interest payable on or after 01.06.2013 but before 01.07.2017 to FIIs and QFIs on their investments in Government securities and Rupee denominated corporate bonds if the rate of interest is within the rate notified by the Central Government. The amendment seeks to provide that the concessional rate will continue to apply on interest payable before 01.07.2020.

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

SECTION - 197A - ENABLING OF FILING OF FORM 15G/15H FOR COMMISSION PAYMENTS SPECIFIED UNDER SECTION 194D -

Under section 194D of the Act tax is to be deducted at source at the rate of 5% on payments in the nature of insurance commission if the payment exceeds Rs.15000/- per financial year. The provisions of section 197A provide for non deduction of tax at source if the recipient furnishes a declaration in Form no.15G/15H declaring that the tax on the estimated total income will be Nil. However, this section 194D does not find a place in section 197A. By amendment it is proposed that deduction under section 194D will also not be made if the deductees furnish declaration in Form no.15G/15H.

The amendment will effective from 1st June 2017.

SECTION – 204 - DEFINITION OF 'PERSON RESPONSIBLE FOR PAYING' IN CASE OF PAYMENTS COVERED UNDER SUB-SECTION (6) OF SECTION 195 -

The provision defines the meaning of 'person responsible for paying' to include employer, company or its principal officer or the payer. The section however does not provide who will be the person responsible for paying in case of the requirement of submitting information as required under section 195(6).

In order to clarify this, it is provided that in the case of furnishing of information relating to payment to a non resident other than a company or a foreign company, the person responsible shall be the payer himself or, if the payer is a company, the company itself including the principal officer thereof.

The amendment is effective from 1st April 2017.

SECTION - 206C - RESTRICTION ON CASH TRANSACTIONS -

This amendment is consequential to the insertion of section 269ST under which no person shall receive any amount of Rs.3 lakhs or more from a person in a day. As a result of this provision section 206C is sought to be amended to omit the provision relating to tax collection at source at the rate of 1% of sale consideration on cash sale of jewellery exceeding Rs.5 lakhs.

The amendment will be effective from 1st April 2017

SECTION - 206CC - STRENGTHENING OF PAN QUOTING MECHANISM IN THE TCS REGIME -

Under section 206AA tax is to be deducted at higher rate of 20% in case the deductee fails to give his PAN. In order to strengthen the PAN mechanism this section is inserted to provide-

- a) The person paying any amount on which tax is collectible shall furnish his PAN to the person responsible for collecting such tax.
- b) In case he does not, tax will be collected at twice the rate or at 5% whichever is higher.
- c) The declaration filed by him under sub section (1A) of section 206C shall not be valid unless the PAN is quoted.
- d) In case the declaration is invalid, the collector shall collect the tax in accordance with the provision of section 206C.
- e) No certificate under section 206C(9) shall be granted unless PAN is furnished.
- f) Where the PAN is invalid it shall be deemed that it has not been furnished.

The provision will not apply to non-resident who does not have PE in India.

The amendment will take effective from 1st April 2017.

SECTION - 211 AND 234C - RATIONALISATION RELATING TO ADVANCE TAX -

Under the existing law installment of advance tax are to be paid on the due dates. It is however provided that an eligible assessee who is subject to presumptive tax under section 44AD is liable to pay advance tax in a single installment on or before 15th March every financial year.

The scheme of presumptive taxation was extended to professionals by the Finance Act 2016. A similar provision is now proposed to be made in section 44ADA dealing with presumptive taxation of professionals provided that advance tax can be paid by them in one installment on or before 15th March.

Further vide Finance Act,2016 persons deriving income from dividend exceeding Rs.10 lakhs were subjected to tax at the rate of 10%. Appreciating

that it may be difficult for them to correctly determine such liability within the payment schedule as specified under section 211, it is proposed to provide that such persons will not be subject to levy of interest on deferment of advance tax if the shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income from dividend taxable under section 115BBDA.

Consequential amendment has been made in section 234C.

The amendment takes effect from 1st April 2017 relevant to assessment year 2017-18

SECTION - 234F - FEE FOR DELAYED FILING OF RETURN -

This is a new provision sought to be inserted. In order to ensure that the return is filed within the due date this section provides that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 onwards in cases where the return is not filed within the time specified under section 139(1). The fee will be as follows-

- 1) Rs.5000/- if the return is furnished after the due date but on or before 31st December of the assessment year.
- 2) Rs.10000/- in other cases.

Where the total income does not exceed Rs.5 lakhs, the amount of fee shall not exceed Rs.1000/-

Consequential amendment is made in section 140A to include such fees in determining the amount payable on self assessment.

Consequential amendment is also made in section 143(1) to take into account the fee payable while determining the amount the amount payable or refundable.

As a consequence the penalty provided under the existing law under section 271F for failure to furnish the return of income shall not apply in respect of assessment year 2018-19 onwards.

These amendments will take effect from 1st April 2018 in relation to assessment year 2018-19 onwards.

SECTION - 241A - PROCESSING OF RETURN WITHIN THE PRESCRIBED TIME AND ENABLE WITHHOLDING OF REFUND IN CERTAIN CASES -

Under the existing provisions of section 143(1D) processing of returns shall not be necessary where a notice has been issued to the assessee under section 143(2). With effect from assessment year 2017-18 however, such processing has been made necessary before passing an assessment order. In order to address the grievance of delay in issuance of refund in genuine cases routinely selected for a scrutiny it is proposed that the section 143(1D) shall cease to apply in respect of returns for assessment year 2017-18 onwards.

In order to ensure recovery in doubtful cases, a new section 241A is proposed to be inserted to provide that for returns relating to assessment year 2017-18 onwards where refund of any amount becomes due to the assessee under section 143(1) and the assessing officer is of the opinion that grant of refund may adversely affect the recovery, he may after recording reasons and with the previous approval of the Principal Commissioner or Commissioner, he may withhold the refund upto the date of assessment.

The amendment will be effective from 1st April 2017 in relation to assessment year 2017-18 onwards.

SECTION - 244A - INTEREST ON REFUND DUE TO DEDUCTOR

The existing section provides that an assessee is entitled to receive interest on refund arising out of excess payment of advance tax, TDS etc. The amendment seeks to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund at the rate of 0.5% for every month or part of the month from the date of refund claimed to the date on which refund is granted. In case of an order passed in Appeal refund will be granted from the date on which tax has paid to the date on which refund is granted.

The amendment will be effective from 1st April 2017.

SECTION - 245A - CONCLUSION OF PROCEEDINGS -

In the chapter dealing with settlement of cases, the term 'case' has been defined to mean a case in which any proceeding for assessment is pending before an AO. Explanation (iv) provides that proceeding for assessment shall be deemed to commence from the date of filing of return and conclude on the date on which the assessment is made or on expiry of two years from the end of relevant assessment year, in case no assessment is made.

Consequent to amendment in section 153, the time limit for completion of assessment has been changed in respect of various cases. As a consequential measure the mention of expiry of two years is not as per the provision of that section and according the same is to be substituted by the time specified for making assessment under section 153(1).

SECTION - 245N, 245O AND 245Q - AMENDMENTS TO THE STRUCTURE OF AUTHORITY FOR ADVANCE RULINGS-

The amendment relates to the advance rulings under the Act. At present there are two different authorities for advance rulings – one for Income Tax and another for Central Excise, Custom Duty and Service Tax. It is proposed to merge the two authorities and accordingly consequential amendments have been made in the two Acts to facilitate such merger. The definition of 'applicant' in section 245N has accordingly been amended to provide reference of applications made under the Custom Act, Central Excise Act and Finance Act 1994. Similar amendment has been made in section 245Q relating to application for advance ruling.

Amendment has also been proposed in respect of qualifications of members of the authority. An officer of revenue service qualified to become member of CBDT and CBEC is qualified to become member of the authority.

Qualification for appointment as chairmen has also been amended to provide that a former Chief Justice of a High Court or a person who has been a High Court Judge for at least 7 years will be eligible to become chairmen.

It is also proposed that in the event of the chairmen being unable to discharge his functions or in the event the office of chairmen falls vacant, the vice-chairmen shall discharge the function of chairmen until the new chairmen is appointed or until the incumbent chairmen resumes duties.

The amendment will be effective from 1st April 2017.

SECTION - 269ST - RESTRICTION ON CASH TRANSACTIONS-

This is a new section proposed to be inserted with the object of discouraging the cash transactions which are responsible for creation and circulation of black money.

The section proposes to provide that no person shall receive an amount of Rs.3 lakhs or more in aggregate from a person in a day; or in respect of a single transaction; or in respect of transactions relating to one event or occasion from a person in cash. The payment exceeding Rs.3 lakhs as above can be accepted only by account payee cheque or account payee bank draft or use of electronic clearing system through a banking system.

The restriction shall not apply to Government, any banking company, post office saving bank or co-operative bank. Central Government has also been empowered to notify the persons or class of persons or receipts on whom the restriction shall not apply. Transactions referred to in section 269SS are also excluded from this restriction.

Violation of the provision will invite penalty under section 271DA, a newly inserted provision, of an amount equal to the amount of such receipt. Penalty shall not be levied if the person proves that there were good and sufficient reasons for the violation. The penalty shall be levied by the Joint Commissioner.

As a consequence section 206C is proposed to be amended to omit the provision relating to tax collection at source at the rate of 1% of consideration on cash sale of jewellery exceeding Rs.5 lakhs.

The amendment will be effective from 1st April 2017

SECTION - 271DA - LEVY OF PENALTY IN CONTRAVENTION OF THE PROVISIONS OF THE SECTION 269ST :

This is a newly inserted provision providing for penalty for contravention of the provision of section 269ST described above. The penalty as stated will be equal to the amount of receipt and can be levied by a Joint Commissioner.

The amendment will be effective from 1st April 2017.

SECTION - 271F - PENALTY FOR FAILURE TO FURNISH RETURN -

This is consequential to the amendment providing for fees for delayed filing of return. A discussion about such fees is made against section 234F. As a result this provision the provisions of section 271F providing for levy of penalty had become inapplicable in respect of assessment year 2018-19 onwards. Accordingly the section provides that nothing contained in the section shall apply to and in relation to the return of income required to be furnished for assessment year commencing on or after 1st day of April 2018.

SECTION - 271J AND 273B - PENALTY ON PROFESSIONALS FOR FURNISHING INCORRECT INFORMATION IN STATUTORY REPORT OR CERTIFICATE -

The Income Tax Act in relation to various compliances rely on the certificates by qualified professionals to ensure that the information is correct. While the provisions exist to penalize the defaulting assesseees there is no provision to penalize the professional who is responsible for certifying the same.

In order to make such persons responsible and to ensure that they exercise due diligence before making such certification, a new section 271J is proposed to provide that if an accountant or a merchant banker or registered valuer furnishes inaccurate information in any report or certificate, the assessing officer or the CIT(A) may direct him to pay a penalty of Rs.10000/- for each such report or certificate.

By amendment of section 273B it is proposed to provide that if a person proves that there was reasonable cause for the failure, penalty shall not be imposable under this section.

The amendment will be effective form 1st April 2017.