FINANCE BILL, 2017

PROVISIONS RELATING TO DIRECT TAXES

Introduction

The provisions of Finance Bill, 2017 relating to direct taxes seek to amend the Income-tax Act, 1961 ('the Act') and the Finance Act, 2016

A. Rates of Income-tax

B. Additional Resource Mobilisation

C. Measures for Promoting Affordable Housing and Real Estate Sector

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DIRECT TAXES
A. RATES OF INCOME-TAX

I. Rates of income-tax in respect of income liable to tax for the assessment year 2017-18.

In respect of income of all categories of assessees liable to tax for the assessment year 2017-18, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance Act, 2016 as amended by the Taxation Laws (Second Amendment) Act, 2016 (No.48 of 2016), for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases.

(1) Surcharge on income-tax-

The amount of income-tax shall be increased by a surcharge for the purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act, at the rate of fifteen per cent. of such income-tax; and

(b) in the case of cooperative societies, firms or local authorities, at the rate of twelve per cent. of such income-tax;

having total income exceeding one crore rupees.

However, marginal relief shall be allowed in all these cases to ensure that 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.

In the case of persons mentioned in (a) and (b) above having total income chargeable to tax under section 115JC of the Act and where such income exceeds one crore rupees, surcharge at the rate mentioned above shall be levied and marginal relief shall also be provided.

(c) in the case of a domestic company,—

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of seven per cent. of such income tax;

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax.

(d) in the case of a company, other than a domestic company,—

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of two per cent. of such income tax;

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income tax.

However, marginal relief shall be allowed in all these cases to ensure that 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.

Also, in the case of every company having total income chargeable to tax under section 115JB of the Act and where such income exceeds one crore rupees but does not exceed ten crore rupees, or exceeds ten crore rupees, as the case may be, surcharge at the rates mentioned above shall be levied and marginal relief shall also be provided.

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

(2) Education Cess—

For assessment 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, in all cases. No marginal relief shall be available in respect of such Cesses.

II. Rates for deduction of income-tax at source during the financial year 2017-18 from certain incomes other than "Salaries".

The rates for deduction of income-tax at source during the financial year 2017-18 from certain incomes other than "Salaries" have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2016, for the purposes of deduction of income-tax at source during the financial year 2016-17.

(1) Surcharge-

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge,—

(i) in case of an individual, Hindu undivided family, association of person, body of individual or artificial juridical person;

(a) at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(b) at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees; and

(ii) in case of a firm or cooperative society, at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,—

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

No surcharge will be levied on deductions in other cases.

(2) Education Cess-

"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, of income tax including surcharge wherever applicable, in the cases of persons not resident in India including company other than a domestic company.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2017-18.

The rates for deduction of income-tax at source from "Salaries" during the financial year 2017-18 and also for computation of "advance tax" payable during the said year in the case of all categories of assessees have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 2017-18 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc.

The salient features of the rates specified in the said Part III are indicated in the following paragraphs-

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:—

(i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Upto Rs. 2,50,000	Nil.
Rs. 2,50,001 to Rs. 5,00,000	5 per cent.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs. 5,00,000	5 per cent.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year,—

Upto Rs. 5,00,000	Nil.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge at the rate of,—

(i) ten per cent. of such income-tax in case of a person having a total income exceeding fifty lakh rupees but not exceeding one crore rupees; and

(ii) fifteen per cent. of such income-tax in case of a person having a total income exceeding one crore rupees.

However, in case of (i) above, the total amount payable as income-tax and surcharge on total income exceeding fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not

exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees.

Further, in case of (ii) above, 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.

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for financial year 2016-17.

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

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for financial year 2016-17.

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 rate of income-tax in the case of every local authority has been specified in Paragraph D of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the financial year 2016-17.

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.

[Clause 2 & First Schedule]

B. ADDITIONAL RESOURCE MOBILISATION

Rationalization of taxation of income by way of dividend

Under the existing provisions of section 115BBDA, income by way of dividend in excess of Rs. 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm.

With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, it is proposed to amend section 115BBDA so as to provide that the provisions of said section shall be applicable to all resident assessees except domestic company and certain funds, trusts, institutions, etc.

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

[Clause 44]

Deduction of tax at source in the case of certain Individuals and Hindu undivided family

The existing provisions of section 194-I of the Act, *inter alia*, provide for deduction of tax at source at the time of credit or payment of rent to the account of the payee beyond a threshold limit. It is further provide that an Individual or a Hindu undivided family who is liable for tax audit under section 44AB for any financial year immediately preceding the financial year in which such income by way of rent is credited or paid shall be required to deduction of tax at source under this section.

Therefore, under the existing provisions of the aforesaid section, an Individual and HUF, being a payer (other than those liable for tax audit) are out of the scope of section 194-I of the Act.

In order to widen the scope of tax deduction at source, it is proposed to insert a new section 194-IB in the Act to provide that Individuals or a HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon.

It is further proposed that tax shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

In order to reduce the compliance burden, it is further proposed that the deductor shall not be required to obtain tax deduction account number (TAN) as per section 203A of the Act. It is also proposed that the deductor shall be liable to deduct tax only once in a previous year.

It is also proposed to provide that where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

This amendment will take effect from 1st June, 2017.

[Clause 63]

C. MEASURES FOR PROMOTING AFFORDABLE HOUSING AND REAL ESTATE SECTOR

Incentives for Promoting Investment in immovable property

The existing provision of the Act provide for concessional rate of tax and also indexation benefit for taxation of capital gains arising from transfer of long-term capital asset. To qualify for long-term asset, an assessee is required to hold the asset for more than 36 months subject to certain exceptions, for example, the holding period of 24 months has been specified for unlisted shares.

With a view to promote the real-estate sector and to make it more attractive for investment, it is proposed to amend section 2 (42A) of the Act so as to reduce the period of holding from the existing 36 months to 24 months in case of immovable property, being land or building or both, to qualify as long term capital asset.

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

[Clause 3]

Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing

The existing provisions of section 80-IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions. The conditions specified, *inter alia*, include the limit of 30 square meters for the built-up area of residential unit in respect of project located in the Chennai, Delhi, Kolkata and Mumbai or within 25 kms from the municipal limits of these four cities. Further, it is also provided that in order to be eligible to claim deductions, the project shall be completed within a period of three years.

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 shall be measured by taking into account the "carpet area" as defined in Real Estate (Regulation and Development) Act, 2016 and 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 the Chennai, Delhi, Kolkata or Mumbai.

(iii) The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.

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

[Clause 37]

Tax incentive for the development of capital of Andhra Pradesh

As per section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2014, the specified compensation received by the landowner in lieu of acquisition of land is exempt from income tax. The Land Pooling Scheme is an alternative form of arrangement made by the Government of Andhra Pradesh for formation of new capital city of Amaravati to avoid land-acquisition disputes and lessen the financial burden associated with payment of compensation under that Act. In Land pooling scheme, the compensation in the form of reconstituted plot or land is provided to landowners. However, the existing provisions of the Act do not provide for exemption from tax on transfer of land under the land pooling scheme as well as on transfer of Land Pooling Ownership Certificates (LPOCs) or reconstituted plot or land.

With a view to provide relief to an individual or Hindu undivided family who was the owner of such land as on 2nd June, 2014, and has transferred such land under the land pooling scheme notified under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014, it is proposed to insert a new clause (37A) in section 10 to provide that in respect of said persons, capital gains arising from following transfer shall not be chargeable to tax under the Act:

(i) Transfer of capital asset being land or building or both, under land pooling scheme.

(ii) Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.

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

This amendment will take effect retrospectively, from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

It is also proposed to make amendment in section 49 so as to provide that where reconstituted plot or land, received under land pooling scheme is transferred after the expiry of two years from the end of the financial year in which the possession of such plot or land was handed over to the said assessee, the cost of acquisition of such plot or land shall be deemed to be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee.

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

[Clauses 6 & 25]

Special provisions for computation of capital gains in case of joint development agreement

Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. The definition of 'transfer', *inter alia*, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

It is further proposed to provide that the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

It is also proposed to provide that benefit of this proposed regime shall not apply to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. It is also proposed to provide that in such a situation, the capital gains as determined under general provisions of the Act shall be deemed to be the income of the previous year in which such transfer took place and shall be computed as per provisions of the Act without taking into account this proposed provisions.

It is also proposed to define the following expressions "competent authority", "specified agrement" and "stamp duty value" for this purpose.

It is also proposed to make consequential amendment in section 49 so as to provide that the cost of acquisition of the share in the project being land or building or both, in the hands of the land owner shall be the amount which is deemed as full value of consideration under the said proposed provision.

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

It is also proposed to insert a new section 194-IC in the Act so as to provide that in case any monetary consideration is payable under the specified agreement, tax at the rate of ten per cent shall be deductible from such payment.

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

[Clauses 22, 25 & 64]

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

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

As the base year for computation of capital gains has become more than three decades old, assessees are facing genuine difficulties in computing the capital gains in respect of a capital asset, especially immovable property acquired before 01.04.1981 due to non-availability of relevant information for computation of fair market value of such asset as on 01.04.1981.

In order to revise the base year for computation 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.

Consequential amendment is also proposed in section 48 so as to align the provisions relating to cost inflation index to the proposed base year.

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

[Clauses 28 & 24]

Expanding the scope of long term bonds under 54EC

The existing provision of 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.

In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, it is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

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

[Clause 27]

No notional income for house property held as stock-in-trade

Section 23 of the Act provides for the manner of determination of annual value of house property.

Considering the business exigencies in case of real estate developers, it is proposed to amend the said section so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period upto one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil

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

[Clause 12]

D. MEASURES FOR STIMULATING GROWTH

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 provisions of section 194LC of the Act provide that the interest payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond shall be eligible for concessional TDS of five per cent.

It further provides that the borrowings shall be made, under a loan agreement at any time on or after the 1st July, 2012, but before the 1st July, 2017; or by way of any long-term bond including long-term infrastructure bond on or after the 1st October, 2014 but before the 1st July, 2017, respectively.

Representations have been received requesting for extension of concessional rate of TDS under sections 194LC of the Act to boost the economy by way of introduction of foreign capital.

Therefore, it is proposed to amend section 194LC to provide that the concessional rate of five per cent. TDS on interest payment under this section will now be available in respect of borrowings made before the 1st July, 2020.

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

Further, consequent upon demand from various stakeholders for granting benefit of lower rate of TDS to rupee denominated bonds, a Press Release dated 29th October, 2015 was issued clarifying that TDS at the rate of 5 per cent would be applicable to these bonds in the same way as it is applicable for off-shore dollar denominated bonds.

In order to give effect to the above, it is further proposed to extend the benefit of section 194LC to rupee denominated bond issued outside India before the 1st July, 2020.

This amendment will take effect retrospectively from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

[Clause 67]

Extension of eligible period of concessional tax rate under section 194LD

The existing provisions of section 194LD of the Act, provides for lower TDS at the rate of five per cent. in the case of interest payable at any time on or after 1st June, 2013 bue before the 1st July, 2017 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this behalf.

Considering the representations received from stakeholders, it is proposed to amend section 194LD to provide that the concessional rate of five per cent. TDS on interest will now be available on interest payable before the 1st July, 2020.

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

[Clause 68]

Carry forward and set off of loss in case of certain companies.

The existing provisions of section 79 of the Act, *inter-alia* provides that 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, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year 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.

In order to facilitate ease of doing business and to promote start up India, 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 a company, not being a company in which the public are substantially interested and being an eligible start-up as referred to in section 80 -IAC of this Act, 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.

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

[Clause 32]

Extending the period for claiming deduction by start-ups

The existing provisions of section 80-IAC, *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.

In view the fact that 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.

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

[Clause 36]

Rationalisation of Provisions relating to tax credit for Minimum Alternate Tax and Alternate Minimum Tax

Section 115JAA contains provisions regarding carrying forward and set off of tax credit in respect of Minimum Alternate Tax (MAT) paid by companies under section 115JB. Currently, the tax credit can be carried forward upto tenth assessment years. With a view to provide relief to the assessees paying MAT, it is proposed to amend section 115JAA to provide that the tax credit determined under this section can be carried forward up to fifteenth assessment years immediately succeeding the assessment years in which such tax credit becomes allowable. Further, similar amendment is proposed in section 115JD so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC upto fifteenth assessment years in case of non corporate assessee.

It is also proposed to amend section 115JAA and 115JD so as to provide that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT.

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

[Clauses 46 & 48]

Extension of scope of section 43D to Co-operative Banks

The existing provisions of section 43D of the Act, *inter-alia*, provides that interest income in relation to certain categories of bad or doubtful debts received by certain institutions or banks or corporations or companies, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier. This provision is an exception to the accrual system of accounting which is regularly followed by such assessees for computation of total income.

The benefit of this provision is presently available to scheduled banks, public financial institutions, State financial corporations, State industrial investment corporations and certain public companies like Housing Finance companies. With a view to provide a level playing field to co-operative banks vis-à-vis scheduled banks and to rationalise the scope of the section 43D, it is proposed to amend section 43D of the Act so as to include co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

Consequentially, as per matching principle in taxation, if the interest income on bad or doubtful debts is chargeable to tax on receipt basis, the interest payable on such bad or doubtful debts need to be allowed on actual payment. In view of this, it is proposed to amend section 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

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

[Clauses 17 & 18]

Increase in deduction limit in respect of provision for bad and doubtful debts

The existing provisions of sub-clause (a) of section 36(1)(viia) of the Act, *inter-alia* provides that a scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, can claim deduction in respect of provision for bad and doubtful debts. The amount of such deduction is limited to seven and one-half per cent. of the total income (computed before making any deduction under that clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner at the end of the previous year.

In order to strengthen the financial position of the entities specified in the sub-clause (a) of section 36(1) (viia) of the Act, it is proposed to amend the said sub-clause to enhance the present limit from seven and one-half per cent. to eight and one-half per cent of the amount of the total income (computed before making any deduction under that clause and Chapter VIA).

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

[Clause 14]

E. PROMOTING DIGITAL ECONOMY

Restricting cash donations

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.

In order to provide cash less economy and transparency, 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.

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

[Clause 35]

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

Under the existing provisions of the Act, revenue expenditure incurred in cash exceeding certain monetary threshold is not allowable as per sub-section (3) of section 40A of the Act except in specified circumstances as referred to in Rule 6DD of the Income-tax Rules, 1962. However, 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.

In order to discourage cash transactions even for capital expenditure, 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.

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

[Clauses 13 & 16]

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.

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

[Clause 15]

Measures for promoting digital payments in case of small unorganized businesses

The existing provisions of section 44AD of the Act, *inter-alia*, provides for a presumptive income scheme in case of eligible assesses carrying out eligible businesses. Under this scheme, in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding two crore rupees in a previous year, a sum equal to eight per cent of the total turnover or gross receipts, or, as the case may be, a sum higher than the aforesaid sum declared by the assessee in his return of income, is deemed to be the profits and gains of such business chargeable to tax under the head "profits and gains of business or profession".

In order to promote digital transactions and to encourage small unorganized business to accept digital payments, it is proposed to amend section 44AD of the Act to reduce the existing rate of deemed total income of eight per cent. to six per cent in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

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

[Clause 21]

Restriction on cash transactions

In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. Black money is generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash.

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of three lakh rupees or more,—

(a) in aggregate from a person in a day;

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is further proposed to provide that the said restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank. Further, it is proposed that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply. Transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section.

It is also proposed to insert new section 271DA in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST. The penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.

It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of one per cent. of sale consideration on cash sale of jewellery exceeding five lakh rupees.

These amendments will take effect from 1st April, 2017.

[Clauses 71, 83 & 84]

F. TRANSPARENCY IN ELECTORAL FUNDING

The existing provisions of section 13A of the Act, *inter-alia* provides that political parties that are registered with the Election Commission of India, are exempt from paying income-tax. To avail the exemption, the political parties are required to submit a report to the Election Commission of India as mandated under sub-section (3) of section 29C of the Representation of the People Act,1951 (43 of 1951) furnishing the details of contributions received by a political party in excess of Rs.20,000 from any person. However, under existing provisions of the Act, there is no restriction of receipt of any amount of donation in cash by a political party.

Secondly, a political party is also required to file its return of income under section 139(4B) of the Act, if its income exceeds the maximum amount not chargeable to tax (without considering the exemption under section 13A). However, filing of the return is not a condition precedent for availing exemption under the said section.

In order to discourage the cash transactions and to bring transparency in the source of funding to political parties , it is proposed to amend the provisions of section 13A to provide for additional conditions for availing the benefit of the said section which are as under:

(i) No donations of Rs.2000/- or more is received 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 or through electoral bonds,

(ii) Political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under section 139.

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond .

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

[Clause 11]

G. EASE OF DOING BUSINESS

Clarity relating to Indirect transfer provisions

Section 9 of the Act deals with cases of income which are deemed to accrue or arise in India. Sub-section (1) of the said section creates a legal fiction that certain incomes shall be deemed to accrue or arise in India. Clause (i) of said sub-section (1) provides a set of circumstances in which income accruing or arising, directly or indirectly, is taxable in India. The said clause provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India shall be deemed to accrue or arise in India.

The Finance Act, 2012 inserted certain clarificatory amendments in the provisions of section 9. The amendments, *inter-alia*, included insertion of Explanation 5 in section 9(1)(i) w.e.f. 1st April, 1962. The Explanation 5 clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

In response to various queries raised by stakeholders seeking clarification on the scope of indirect transfer provisions, the CBDT issued Circular No 41 of 2016. However, concerns have been raised by stakeholders that the provisions result in multiple taxation.

In order to address these concerns, it is proposed to amend the said section so as to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor, as referred to in clause (a) of the Explanation to section 115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, as these entities are regulated and broad based. The proposed amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st April, 2012 and will, accordingly, apply in relation to assessment year 2012-13 and subsequent years.

[Clause 4]

Modification in conditions of special taxation regime for off shore funds under section 9A

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

Sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. These conditions, *inter-alia*, are related to residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length. In respect of corpus of the fund, the condition is that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees except where the fund has been established or incorporated in the previous year in which case, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year.

Representations have been received stating that in the year in which the fund is being wound up, it would not be possible to maintain the monthly average of the corpus of the fund to an amount which would not be less than one hundred crore rupees as required.

In order to rationalise the regime and to address the concerns of the stakeholders, it is proposed to provide that in the previous year in which the fund is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees, shall not apply.

This amendment will take effect retrospectively from 1st April, 2016 and shall apply to the assessment year 2016-17 and subsequent years.

[Clause 5]

Exemption of income of Foreign Company from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement

The existing provisions of clause (48A) of section 10 of the Act, provides that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall be exempt, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government; and having regard to the national interest, said foreign company and the said agreement or arrangement are notified by the Central Government in that behalf. The benefit of exemption presently is not available to sale out of the leftover stock of crude after the expiry of said agreement or the arrangement.

Given the strategic nature of the project benefitting India to augment its strategic petroleum reserves, it is proposed to insert a new clause (48B) in section 10 so as to provide that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in clause (48A) of section 10 of the Act shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf.

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

[Clause 6]

Enabling of Filing of Form 15G/15H for commission payments specified under section 194D

The existing provision of sub-section 194D of the Act, *inter-alia*, provides for tax deduction at source (TDS) at the rate of 5% for payments in the nature of insurance commission beyond a threshold limit of Rs. 15,000 per financial year. Further, the existing provisions of section 197A of the Act , *inter-alia* provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self- declaration in prescribed Form.No.15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. Presently, the payment in the nature of income referred to in section 194D is not covered by provisions of section 197A.

In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend section 197A so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of tax at source in respect insurance commission referred to in section 194D.

This amendment will take effect from 1st June, 2017.

[Clause 69]

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

The existing provisions of clause (i) and clause (ii) of sub-section (2) of section 44AA of the Act cast an obligation on every person carrying on business or profession [other than those mentioned in sub-section (1) such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette] to maintain such books of accounts and documents in the previous year to enable the Assessing Officer to compute his total income in accordance with the provisions of Act, provided that the income and total sales or turn over or gross receipts, etc specified in said clauses exceeds rupees one lakh twenty thousand and rupees ten lakh, respectively.

In order to reduce the compliance burden, it is proposed to amend the provisions of section 44AA to increase monetary limits of income and total sales or turn over or gross receipts, etc specified in said clauses for maintenance of books of accounts from one lakh twenty thousand rupees to two lakh fifty thousand rupees and from ten lakh rupees to twenty-five lakh rupees, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

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

[Clause 19]

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

The existing provision of section 44AB of the Act, *inter-alia* provides that every person carrying on the business is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceeds one crore rupees. The threshold limit for applicability of presumptive taxation in case of eligible business carried on by eligible person under section 44AD was increased to two crore rupees from one crore rupees with effect from 1st April, 2017 relevant to Assessment year 2017-18 by Finance Act, 2016. Further vide press release dated 20th June, 2016, it was clarified that if an eligible person opts for presumptive taxation scheme as per section 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed two crore rupees.

In light of the above legislative changes and to reduce the compliance burden of the small tax payers and facilitate the ease of doing business, it is proposed to amend the section 44AB to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year, from requirement of audit of books of accounts under section 44AB.

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

[Clause 20]

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

The existing provision of section 194LA of the Act, *inter-alia*, provides that any person paying compensation shall deduct tax at source at the rate of ten per cent. on the compensation or enhanced compensation or consideration on account of compulsory acquisition of any immovable property (other than agricultural land) under any law for the time being in force subject to certain conditions specified therein.

The Central Government has enacted a new law namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ('RFCTLARR Act') on 26th September, 2013 which came into force on 1st January, 2014. Section 96 of the RFCTLARR Act *inter-alia*, provides that income-tax shall not be levied on award or agreement made subject to limitations mentioned in section 46 of the said Act. Therefore, compensation received for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFTCLARR Act), is exempted from the levy of income-tax.

The Board has issued Circular number 36/2016 dated 25th October, 2016 clarifying that compensation received in respect of any award or agreement which has been exempted from the levy of income-tax vide section 96 of the RFCTLARR Act shall not be taxable under the provisions of the Act, even if there is no specific provision of exemption for such compensation under the Act. However, the circular addressed only the matter pertaining to taxability of compensation received on compulsory acquisition of land and not tax deduction at source under section 194LA of the Act.

Thus in order to rationalise the provisions of the Act, it is proposed to amend the section 194LA to provide that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 (except those made under section 46) of RFCTLARR Act.

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

[Clause 66]

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

The existing provision of sub-section (1F) of section 206C of the Act, *inter-alia* provides that the seller who receives consideration for sale of a motor vehicle exceeding ten lakh rupees, shall collect one per cent of the sale consideration as tax from the buyer.

In order to reduce compliance burden in certain cases, it is proposed to amend section 206C, to exempt the following class of buyers such as the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Section 10; a public sector company which is engaged in the business of carrying passengers, from the applicability of the provision of sub-section (1F) of section 206C of the Act.

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

[Clause 71]

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

The existing provisions of sub-section (1) of section 194J of the Act, *inter-alia* provides that a specified person is required to deduct an amount equal to ten per cent. of any sum payable or paid (whichever is earlier) to a resident by way of fees for professional services or fees for technical services provided such sum paid/payable or aggregate of sum paid/payable exceeds thirty thousand rupees to a person in a financial year.

In order to promote ease of doing business, it is proposed to amend section 194J to reduce the rate of deduction of tax at source to two per cent. from ten per cent. in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center.

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

[Clause 65]

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

The existing provisions of section 92BA of the Act, *inter-alia* provide that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) are covered within the ambit of specified domestic transactions.

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc. This has considerably increased the compliance burden of the taxpayers.

In order to reduce the compliance burden of taxpayers, it is proposed to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. Accordingly, it is also proposed to make a consequential amendment in section 40(A)(2)(b) of the Act.

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

[Clauses 15 & 41]

Tax neutral conversion of preference shares to equity shares

Under the existing provisions of the Act, conversion of security from one form to another is regarded as transfer for the purpose of levy of capital gains tax. However, tax neutrality to the conversion of bond or debenture of a company to share or debenture of that company is provided under the section 47. No similar tax neutrality to the conversion of preference share of a company into its equity share is provided.

In order to provide tax neutrality to the conversion of preference share of a company into equity share of that company, it is proposed to amend section 47 to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

Consequential amendments are also proposed in section 49 and section 2(42A) in respect of cost of acquisition and period of holding.

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

[Clauses 3, 23 & 25]

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.

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

[Clause 25]

Income from transfer of Carbon credits

Carbon credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy-efficient machinery, landfill methane capture, etc. The Kyoto Protocol commits certain developed countries to reduce their GHG emissions and for this, they will be given carbon credits. A reduction in emissions entitles the entity to a credit in the form of a Certified Emission Reduction (CER) certificate. The CER is tradable and its holder can transfer it to an entity which needs Carbon Credits to overcome an unfavourable position on carbon credits.

Income-tax Department has been treating the income on transfer of carbon credits as business income which is subject to tax at the rate of 30%. However, divergent decisions have been given by the courts on the issue as to whether the income received or receivable on transfer of carbon credit is a revenue receipt or capital receipt.

In order to bring clarity on the issue of taxation of income from transfer of carbon credits and to encourage measures to protect the environment, it is proposed to insert a new section 115BBG to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of ten per cent (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act.

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

[Clause 45]

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

The provisions of sub-section (1D) of section 143 provide that the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2) of the said section. Amendment to the said sub-section brought by Finance Act, 2016 provides that with effect from assessment year 2017-18, processing under section 143(1) is to be done before passing of assessment order.

In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, it is proposed that provisions of section 143(1D) shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards.

However, to address the concern of recovery of revenue in doubtful cases, it is proposed to insert a new section 241A to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply to returns furnished for assessment year 2017-18 and subsequent years.

[Clauses 57 & 76]

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

Section 211 of the Act provides for instalments of advance tax and due dates for depositing the same. Clause (b) of sub-section (1) of the said section provides that an eligible assessee engaged in an eligible business referred to in section 44AD is liable to pay advance tax in a single instalment on or before the 15th of March every financial year.

Vide Finance Act 2016, presumptive taxation regime has been extended to professionals also. Hence, it is proposed to amend the said clause (b) to provide that the assessee who declares profits and gains in accordance with presumptive taxation regime provided under section 44ADA shall also be liable to pay advance tax in one instalment on or before the 15th of March.

It is also proposed to make consequential amendments in sub-section (1) of section 234C to provide that in respect of an assessee referred to in section 44ADA, interest under the said section shall be levied, if the advance tax paid on or before the 15th March, is less than the tax due on the returned income.

Vide Finance Act, 2016, tax on certain dividends received from domestic companies is to be levied under section 115BBDA of the Act with effect from the 1st April, 2017, if such income exceeds ten lakh rupees. However, in view of the uncertain nature of declaration and receipt of dividend incomes, an assessee liable to pay advance tax may not be able to correctly determine such liability within the payment schedule as specified under section 211 and shall, therefore, incur levy of interest on deferment of advance tax as specified under clauses (a) or (b) of section 234C(1).

It is hence proposed to provide that that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA, the interest under section 234C shall not be levied subject to fulfilment of conditions specified therein.

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

[Clauses 73 & 74]

Interest on refund due to deductor

The existing section 244A of the Act provides that an assessee is entitled to receive interest on refund arising out of excess payment of advance tax, tax deducted or collected at source, etc.

It is proposed to insert a new sub-section (1B) in the said section to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted.

It is also proposed to provide that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor.

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

[Clause 77]

Extension of capital gain exemption to Rupee Denominated Bonds

With a view to provide relief to non-resident investor, in the wake of permission to the Indian corporates by the Reserve Bank of India (the RBI) to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from a source outside India, the Finance Act, 2016, *inter-alia*, amended section 48 of the Act with effect from the 1st April, 2017 so as to provide that the 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 subscribed by him, shall be ignored for the purpose of computation of full value of consideration.

Representations have been received to allow exemption from capital gain arising to secondary holders as well. It has also been represented to allow exemption in respect of transfer of Rupee Denominated Bonds from non-resident to non-resident for the purpose of increasing acceptability and transferability of such instrument in the foreign market.

In order to further 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.

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

[Clause 24]

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

The existing provisions of section 155 of the Act provide for procedure for amendment of assessment order in case of certain specified errors.

In view of rule 128 of the Income-tax Rules, 1962, which provides a mechanism for claim of foreign tax credit, it is proposed to insert sub-section (14A) in section 155 to provide that where credit for foreign taxes paid is not given for the relevant assessment year on the grounds that the payment of such foreign tax was in dispute, the Assessing Officer shall rectify the assessment order or an intimation under sub-section (1) of section 143, if the assessee, within six months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the Assessing Officer that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other assessment year.

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

[Clause 62]

Amendments to the structure of Authority for Advance Rulings

Chapter XIX-B of the Act relates to the Advance rulings under the Act.

With a view to promote ease of doing business, it has been decided by the Government to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax. Accordingly, necessary amendments, have been made to Chapter XIX-B to allow merger of these AARs.

Accordingly, it is proposed to amend the definition of applicant in section 245N of the Act to provide reference of applications for Advance Ruling made under the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 (which makes provisions in respect of Service Tax Matters). Similarly, amendment has been proposed to section 245Q which relates to application for advance ruling.

It is further proposed to amend the qualifications for appointment as revenue Member of the AAR and provide that an officer of the Indian Revenue Service qualified to be a Member of the Central Board of Direct Taxes Board and an officer of the Indian

Customs and Central Excise Service, who is qualified to be a member of the Central Board of Excise & Customs, shall be eligible to be appointed as revenue Member of AAR.

In order to improve the efficiency and efficacy of the AAR, and to increase the available pool for appointment as Chairman, AAR, it is proposed to amend the qualifications for appointment as Chairman as provided in section 245-O and provide that a former Chief Justice of a High Court, or a person who has been a High Court Judge for at least seven years shall also be eligible to be Chairman of the AAR.

It is also proposed to provide that the qualifications for appointment as revenue Member or law Member shall be considered as on the date of occurrence of the vacancy.

It is also proposed that in the event the Chairman is unable to discharge his functions owing to absence, illness or any other reason, or in the event that the office of the Chairman falls vacant, the Vice-chairman shall discharge the functions of the Chairman until the new Chairman enters upon his office or until the incumbent Chairman resumes his duties.

These amendments will take effect from 1st April, 2017.

[Clauses 79, 80 & 81]

Amendment of Section 253

The existing provisions of sub-clause (f) of sub-section (1) of section 253 provide that an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 shall be appealable before the Appellate Tribunal.

It is proposed to expand the scope of the said section to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the Appellate Tribunal.

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

[Clause 82]

Empowering Board to issue directions in respect of penalty for failure to deduct or collect tax at source

Existing provision of clause (a) of sub-section (2) of section 119 empowers the Board to issue orders setting forth directions or instructions (not being prejudicial to assessees) to be followed by subordinate authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties.

In order to reduce the genuine hardship which may be faced by a person responsible for deduction and collection of tax at source due to levy of penalty under section 271C or 271CA, it is proposed to insert reference of sections 271C and 271CA in the said clause, so as to empower the Board to issue directions or instructions in respect of the said sections also.

The amendment will take effect from 1st April, 2017.

[Clause 49]

Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return

The existing provisions of section 153 specify time limit for completion of assessment, reassessment and re-computation of cases mentioned therein.

In the effort to minimise human interface and move towards technology, massive computerisation has been carried out in the Department, which has translated into overall enhanced efficiency in the functioning of the Department. In view of the same, it is proposed to amend sub-section (1) of the said section, to provide that for the assessment year 2018-19, the time limit for making an assessment order under sections 143 or 144 shall be reduced from existing twenty-one months to eighteen months from the end of the assessment year, and for the assessment year 2019-20 and onwards, the said time limit shall be twelve months from the end of the assessment year in which the income was first assessable.

It is further proposed to amend sub-section (2) of the said section to provide that the time limit for making an order of assessment, reassessment or re-computation under section 147, in respect of notices served under section 148 on or after the 1st day of April, 2019 shall be twelve months from the end of the financial year in which notice under section 148 is served.

It is also proposed to amend sub-section (3) of the said section to provide that the time limit for making an order of fresh assessment in pursuance of an order passed or received in the financial year 2019-20 and onwards under sections 254 or 263

or 264 shall be twelve months from the end of the financial year in which order under section 254 is received or order under section 263 or 264 is passed by the authority referred therein.

These amendments will take effect from 1st April, 2017.

It is also proposed to amend sub-section (5) of the said section to provide that where an order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment provided in sub-section (3) shall apply to the order giving effect to such order.

It is also proposed to amend sub-section (9) of the said section to provide that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or under section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016.

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

It is also proposed to amend third proviso to Explanation 1 of the said section to omit the reference of section 153B therein.

It is also proposed to consequentially amend the meaning of conclusion of proceeding in the Explanation to clause (b) of section 245A so as to provide that conclusion of proceedings shall be construed in accordance with the time specified for making assessment or reassessment under sub-section (1) of section 153.

These amendments will take effect from 1st April, 2017.

In order to expedite assessments of the Department as proposed above, it is critical that the returns for an assessment year also freeze by the end of the assessment year. It is hence proposed to amend the provisions of sub-section (5) of section 139 to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

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

[Clauses 55, 58 & 78]

Rationalisation of the provisions in respect of time limits for completion of search assessment

The existing provisions of section 153B provide for the time limit for completion of assessment under section 153A.

Since the time limit for completion of assessment under section 153 is proposed to be rationalised, the time limit for completion of assessment under section 153A is also proposed to be consequentially rationalised. It is accordingly proposed to amend sub-section (1) of the said section to provide that for search and seizure cases conducted in the financial year 2018-19, the time limit for making an assessment order under section 153A shall be reduced from existing twenty-one months to eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed. It is further proposed that for search and seizure cases conducted in the financial year 2019-20 and onwards, the said time limit shall be further reduced to twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.

It is further proposed to provide that period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period available to make assessment or reassessment in case of person on whom search is conducted or twelve months from the end of the financial year in which books of accounts or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other persons, whichever is later.

It is also proposed to insert a proviso to the Explanation of the said section to provide that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section for assessment or reassessment shall after the exclusion of the period under sub-section (4) of section 245HA shall not be less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.

These amendments will take effect from 1st April, 2017.

It is also proposed to amend sub-section (3) of section 153B to provide that where a notice under section 153A or section 153C has been issued prior to 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the Explanation, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016.

This amendment will take effect retrospectively from 1st June, 2016.

[Clause 60]

H. ANTI-ABUSE MEASURES

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

Under the existing provisions of the Section 10(38) of the Income-tax Act, 1961, the income arising from a transfer of long term capital asset, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1st October, 2014 and is chargeable to Securities Transaction Tax under Chapter VII of the Finance (No.2) Act, 2004.

It has been noticed that exemption provided under section 10(38) is being misused by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions. With a view to prevent this abuse, it is proposed to amend section 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2) Act, 2004. However, to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

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

[Clause 6]

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".

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

[Clause 26]

Widening scope of Income from other sources

Under the existing provisions of 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. Therefore, receipt of sum of money or property without consideration or for inadequate consideration does not attract these anti-abuse provisions in cases of other assessees.

In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, it is proposed to insert a new clause (x) in sub-section (2) of section 56 so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources". 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.

Consequential amendment is also proposed in section 49 for determination of cost of acquisition.

These amendments will take effect from 1st April, 2017 and the said receipt of sum of money or property on or after 1st April, 2017 shall be chargeable to tax in accordance with the provisions of proposed clause (x) of sub-section (2) of section 56.

[Clauses 25 & 29]

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".

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

[Clause 30]

Limitation of Interest deduction in certain cases.

A company is typically financed or capitalized through a mixture of debt and equity. The way a company is capitalized often has a significant impact on the amount of profit it reports for tax purposes as the tax legislations of countries typically allow a deduction for interest paid or payable in arriving at the profit for tax purposes while the dividend paid on equity contribution is not deductible . Therefore, the higher the level of debt in a company, and thus the amount of interest it pays, the lower will be its taxable profit. For this reason, debt is often a more tax efficient method of finance than equity. Multinational groups are often able to structure their financing arrangements to maximize these benefits. For this reason, country's tax administrations often introduce rules that place a limit on the amount of interest that can be deducted in computing a company's profit for tax purposes. Such rules are designed to counter cross-border shifting of profit through excessive interest payments, and thus aim to protect a country's tax base.

Under the initiative of the G-20 countries, the Organization for Economic Co-operation and Development (OECD) in its Base Erosion and Profit Shifting (BEPS) project had taken up the issue of base erosion and profit shifting by way of excess interest deductions by the MNEs in Action plan 4. The OECD has recommended several measures in its final report to address this issue.

In view of the above, it is proposed to insert a new section 94B, in line with the recommendations of OECD BEPS Action Plan 4, to provide 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 (EBITDA) or interest paid or payable to associated enterprise, whichever is less.

The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non-resident or to a permanent establishment of a non-resident and who is an 'associated enterprise' of the borrower. Further, the debt shall be deemed to be treated as issued by an associated enterprise where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.

The provisions shall allow for carry forward of disallowed interest expense to eight assessment years immediately succeeding the assessment year for which the disallowance was first made and deduction against the income computed under the head "Profits and gains of business or profession to the extent of maximum allowable interest expenditure.

In order to target only large interest payments, it is proposed to provide for a threshold of interest expenditure of one crore rupees exceeding which the provision would be applicable.

It is further proposed to exclude Banks and Insurance business from the ambit of the said provisions keeping in view of special nature of these businesses.

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

[Clause 43]

Secondary adjustments in certain cases.

"Secondary adjustment" means an adjustment in the books of accounts of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee. As per the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD transfer pricing guidelines), secondary adjustment may take the form of constructive dividends, constructive equity contributions, or constructive loans.

The provisions of secondary adjustment are internationally recognised and are already part of the transfer pricing rules of many leading economies in the world. Whilst the approaches to secondary adjustments by individual countries vary, they represent an internationally recognised method to align the economic benefit of the transaction with the arm's length position.

In order to align the transfer pricing provisions in line with OECD transfer pricing guidelines and international best practices , it is proposed to insert a new section 92CE to provide that the assessee shall be required to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo motu by the assessee in his return of income; or made by the Assessing Officer has been accepted by the assessee; or is determined by an advance pricing agreement entered into by the assessee under section 92CC; or is made as per the safe harbour rules framed under section 92CB; or is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or 90A.

It is proposed to provide that where as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed as the income of the assessee , in the manner as may be prescribed.

It is also proposed to provide that such secondary adjustment shall not be carried out if, the amount of primary adjustment made in the case of an assessee in any previous year does not exceed one crore rupees and the primary adjustment is made in respect of an assessment year commencing on or before 1st April,2016.

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

[Clause 42]

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.

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

[Clauses 6 & 8]

Mandatory furnishing of return by certain exempt entities

The existing provisions of sub-section (4C) of section 139 mandate filing of return by certain entities which are exempt from the levy of income-tax.

In order to verify that certain entities which enjoy exemption under section 10 actually carry out the activities for which the exemption has been provided under the Act, it is proposed to provide that any person as referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall also be mandatorily required to furnish a return of income.

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

[Clause 55]

Fee for delayed filing of return

In view of the non-intrusive information-driven approach for improving tax compliance and effective utilization of information in tax administration, it is important that the returns are filed within the due dates specified in section 139(1). Further, the reduced time limits proposed for making of assessment are also based on pre-requisite that returns are filed on time.

In order to ensure that return is filed within due date, it is proposed to insert a new section 234F in the Act to provide that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139. The proposed fee structure is as follows:—

(i) a fee of five thousand rupees shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;

(ii) a fee of ten thousand rupees shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee amount shall not exceed one thousand rupees.

In view of above, it is proposed to make consequential amendment in section 140A to include that in case of delay in furnishing of return of income, alongwith the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

It is also proposed to make consequential amendment in sub-section (1) of section 143, to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F shall also be taken into account.

Consequentially, it is also proposed that the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

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

[Clauses 56, 57, 75 & 85]

Penalty on professionals for furnishing incorrect information in statutory report or certificate

The thrust of the Government in recent past is on voluntary compliance. Certification of various reports and certificates by a qualified professional has been provided in the Act to ensure that the information furnished by an assessee under the provisions of the Act is correct. Various provisions exist under the Act to penalise the defaulting assessee in case of furnishing incorrect information. However, there exist no penal provision for levy of penalty for furnishing incorrect information by the person who is responsible for certifying the same.

In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, it is proposed to insert a new section 271J so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of ten thousand rupees for each such report or certificate by way of penalty.

It is further proposed to define the expressions "accountant", "merchant banker" and "registered valuer". It is also proposed to provide through amendment of section 273B that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of the proposed section 271J.

These amendments will take effect from 1st April, 2017.

[Clauses 86 & 87]

I. RATIONALISATION MEASURES

Rationalisation of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS)

Central Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards(IFRS) and prescribed the Companies(Indian Accounting Standards) Rules, 2015 which laid down a roadmap for implementation of these Ind AS.

Globally, different approaches have been adopted to deal with the tax issues arising from adoption of IFRS. For ensuring horizontal equity across the companies irrespective of the fact that whether they follow Ind AS or the existing Indian GAAP, the Central Government has issued Income Computation and Disclosure Standards (ICDS) for computation of taxable income for specified heads of income.

As the book profit based on Ind AS compliant financial statement is likely to be different from the book profit based on existing Indian GAAP, the Central Board of Direct Taxes (CBDT) constituted a committee in June, 2015 for suggesting the framework for computation of minimum alternate tax (MAT) liability under section 115JB for Ind AS compliant companies in the year of adoption and thereafter.

The Committee submitted first interim report on 18th March, 2016 which was placed in public domain by the CBDT for wider public consultations. The Committee submitted the second interim report on 5th August, 2016 which was also placed in public domain. The comments/ suggestions received in respect of the first and second interim report were examined by the Committee. After taking into account all the suggestions/ comments received, the Committee submitted its final report on 22nd December, 2016.

In view of the above, it is proposed to amend section 115JB so as to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter. The main features of this proposed framework are as under:

A. MAT on Ind AS compliant financial statement

(i) No further adjustments to the net profits before other comprehensive income of Ind AS compliant companies, other than those already specified under section 115JB of the Act shall be made.

(ii) The other comprehensive income includes certain items that will permanently be recorded in reserves and hence never be reclassified to the statement of profit and loss included in the computation of book profits. These items shall be included in book profits for MAT purposes at the point of time as specified below—

Sl.No	Items	Point of time
1	Changes in revaluation surplus of Property, Plant or Equipment (PPE) and Intangible assets (Ind AS 16 and Ind AS 38)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred
2	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred
3	Remeasurements of defined benefit plans (Ind AS 19)	To be included in book profits every year as the remeasurements gains and losses arise
4	Any other item	To be included in book profits every year as the gains and losses arise

(iii) Appendix A of Ind AS 10 provides that any distributions of non-cash assets to shareholders (for example, in a demerger) shall be accounted for at fair value. The difference between the carrying value of the assets and the fair value is recorded in the profit and loss account. Correspondingly, the reserves are debited at fair value to record the distribution as a 'deemed dividend' to the shareholders. As there is a corresponding adjustment in retained earnings, this difference arising on demerger shall be excluded from the book profits. However, in the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computing of book profit of the resulting company.

B. MAT on first time adoption

(i) The adjustments arising on account of transition to Ind AS from existing Indian GAAP is required to be recorded directly in Other Equity at the date of transition to Ind AS. Several of these items would subsequently never be reclassified to the statement of profit and loss / included in the computation of book profits. Accordingly, the following treatment is proposed:

(I) Those adjustments recorded in other comprehensive income and which would subsequently be reclassified to the profit and loss, shall be included in book profits in the year in which these are reclassified to the profit and loss;

(II) Those adjustments recorded in other comprehensive income and which would never be subsequently reclassified to the profit and loss shall be included in book profits as specified hereunder-

Sl.No.	Items	Point of time
1	Changes in revaluation surplus of PPE and Intangible assets (Ind AS 16 and Ind AS 38)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred
2	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred
3	Remeasurements of defined benefit plans (Ind AS 19)	To be included in book profits equally over a period of five years starting from the year of first time adoption of Ind AS
4	Any other item	To be included in book profits equally over a period of five years starting from the year of first time adoption of Ind AS

(III) All other adjustments recorded in Reserves and Surplus (excluding Capital Reserve and Securities Premium Reserve) as referred to in Division II of Schedule III of Companies Act, 2013 and which would otherwise never subsequently be reclassified to the profit and loss account, shall be included in the book profits, equally over a period of five years starting from the year of first time adoption of Ind AS subject to the following—

a) PPE and intangible assets at fair value as *deemed cost*

An entity may use fair value in its opening Ind AS Balance Sheet as deemed cost for an item of PPE or an intangible asset as mentioned in paragraphs D5 and D7 of Ind AS 101. In such cases the treatment shall be as under—

- The existing provisions for computation of book profits under section 115JB of the Act provide that in case of revaluation of assets, any impact on account of such revaluation shall be ignored for the purposes of computation of book profits. Further, the adjustments in retained earnings on first time adoption with respect to items of PPE and Intangible assets shall be ignored for the purposes of computation of book profits.
- Depreciation shall be computed ignoring the amount of aforesaid retained earnings adjustment.
- Similarly, gain/loss on realisation/ disposal/ retirement of such assets shall be computed ignoring the aforesaid retained earnings adjustment.

b] Investments in subsidiaries, joint ventures and associates at fair value as deemed cost

An entity may use fair value in its opening Ind AS Balance Sheet as deemed cost for investment in a subsidiary, joint venture or associate in its separate financial statements as mentioned in paragraph D15 of Ind AS 101. In such cases retained earnings adjustment shall be included in the book profit at the time of realisation of such investment.

c] Cumulative translation differences

- An entity may elect a choice whereby the cumulative translation differences for all foreign operations are deemed to be zero at the date of transition to Ind AS. Further, the gain or loss on a subsequent disposal of any foreign operation shall exclude translation differences that arose before the date of transition to Ind AS and shall include only the translation differences after the date of transition.
- In such cases, to ensure that such Cumulative translation differences on the date of transition which have been transferred to retained earnings, are taken into account, these shall be included in the book profits at the time of disposal of foreign operations as mentioned in paragraph 48 of Ind AS 21.

(ii) All other adjustments to retained earnings at the time of transition (including for example, Decommissioning Liability, Asset retirement obligations, Foreign exchange capitalisation/ decapitalization, Borrowing costs adjustments etc.) shall be included in book profits, equally over a period of five years starting from the year of first time adoption of Ind AS.

(iii) Section 115JB of the Act already provides for adjustments on account of deferred tax and its provision. Any deferred tax adjustments recorded in Reserves and Surplus on account of transition to Ind AS shall also be ignored.

C. Reference year for first time adoption adjustments

In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year. As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present an equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the opening date of preceding year as well as on the closing date of the preceding year. It is proposed that for the purposes of computation of book profits of the year of adoption and the proposed adjustments, the amounts adjusted as of the opening date of the first year of adoption shall be considered. For example, companies which adopt Ind AS with effect from 1 April 2016 are required prepare their financial statements for the year 2016-17 as per requirements of Ind AS. Such companies are also required to prepare an opening balance sheet as of 1 April 2015 and restate the financial statements for the comparative period 2015-16. In such a case, the first time adoption adjustments as of 31 March 2016 shall be considered for computation of MAT liability for previous year 2016-17 (Assessment year 2017-18) and thereafter. Further, in this case, the period of five years proposed above shall be previous years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21.

As the Ind-AS is required to be adopted by certain companies for financial year 2016-17 mandatorily, these amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

[Clause 47]

Clarification regarding the applicability of section 112

Finance Act, 2012 with effect from 1st April, 2013 amended the provisions of section 112(1)(c) to provide concessional rate of taxation of ten per cent for long-term capital gains arising from the transfer of unlisted securities in case of non-resident. There was an uncertainty as to whether the provision of section 112(1)(c)(iii) is applicable to the transfer of share of a private company. Finance Act, 2016 amended section 112(1)(c) to clarify that the share of company in which public are not substantially interested shall also be chargeable to tax at the rate of ten per cent with effect from 1st April, 2017. As the concessional rate was provided with effect from 1st April, 2013, there was uncertainty about the applicability of the amendment to the intervening period.

With a view to clarify that the amendment made by Finance Act, 2016 shall also apply to the period from 1st April, 2013 to 31st March, 2017, it is proposed to amend section 50 of the Finance Act, 2016 so as to provide that the effective date of amendment made to section 112(1)(c)(iii) vide Finance Act,2016 shall be 01-04-2013 instead of 01-04-2017.

This amendment will take effect, retrospectively from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

[Clause 150]

Rationalization of rebate allowable under Section 87A

The existing provisions of section 87A provide for a rebate up to Rs. 5000 from the income-tax payable to a resident individual if this total income does not exceed Rs. 5,00,000.

In view of proposed rationalisation of tax rates for individuals in the income slab of Rs. 2,50,000 to Rs.5,00,000,it is proposed to amend section 87A so as to reduce the maximum amount of rebate available under this section from existing Rs. 5000 to Rs. 2500. It is also proposed to provide that this rebate shall be available to only resident individuals whose total income does not exceed Rs. 3,50,000.

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

[Clause 38]

Rationalisation of provisions of Section 10AA

Under the existing provisions of the section 10AA, deduction is allowed from the total income of an assessee, in respect of profits and gains from his Unit operating in SEZ, subject to fulfilment of certain conditions.

Section 10AA allows deduction in computing the total income of the assessee, hence the deduction is to be allowed for the total income of the assessee as computed in accordance with the provision of the Act before giving effect to the provisions of section 10AA. However, courts have taken a view (while deciding the matter 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.

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

[Clause 7]

Consolidation of plans within a scheme of mutual fund

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.

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

[Clauses 3 & 25]

Definition of 'person responsible for paying' in case of payments covered under sub-section (6) of section 195

The existing provisions of section 204 of Act, has defined the meaning of 'person responsible for paying' to include employer, company or its principal officer or the payer. Further clause (iii) of section 204 of the Act, *inter alia*, provides that in the case of credit or payment of any sum chargeable under the provisions of this Act, the 'person responsible for paying' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof. However, the said section does not cover in respect of payment of any sum as per sub-section (6) of section 195. Which mandates the 'person responsible for paying' to furnish information relating to payment of any sum, whether chargeable to tax or not.

Thus in order to bring clarity to the meaning of 'person responsible for paying' in case of payment by a resident to a non-resident in accordance with section 195(6) of the Act, it is proposed to amend the said section of the Act to provide that in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, 'person responsible for paying' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

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

[Clause 70]

Clarification with regard to interpretation of 'terms' used in an agreement entered into under section 90 and 90A.

Under the existing provisions of Section 90 of the Act, power has been conferred upon the Central Government to enter into agreement with the Government of any country outside India for granting relief in respect of income on which income-tax has been paid both under the said Act and income-tax Act in that foreign country, avoidance of double taxation of income, exchange of information for the prevention of evasion or avoidance of income-tax or recovery of income-tax. Similar provisions are provided in section 90A of the Act in the case of an agreement entered into by any specified association in India with any specified association in the specified territory outside India. It is further provided in section 90 and 90A of the Act that any 'term' used but not defined in this Act or in the agreement referred to in sub-section (1) of respective provisions shall have the meaning assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf, unless the context otherwise requires, provided the same is not inconsistent with the provisions of this Act or the agreement.

The Income-tax simplification committee in its final report has suggested to bring in more clarity in the Act in respect of interpretation of 'terms' used in an agreement entered under section 90 or 90A for the purposes of its application in order to reduce the avoidable litigation related to taxation of non- residents.

In the light of above discussion and to bring in clarity to avoid litigation , it is proposed to amend the sections 90 and 90A of the Act, to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

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

[Clauses 39 & 40]

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.

In light of the recommendations of Income-tax simplification committee and to bring clarity, 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.

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

[Clause 16]

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 of section 12A of the Act 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.

Further, the provisions of section 12AA of the Act provide for registration of the trust or institution which entitles them to the benefit of sections 11 and 12. It also provides the circumstances under which registration can be cancelled, one such circumstance 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 [as it stood before its amendment by the Finance (No. 2) Act, 1996] and, subsequently, it has adopted or undertaken 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.

These amendments are clarificatory in nature.

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

[Clauses 9 & 10]

Cost of Acquisition of capital assets of entities in case of levy of tax on accreted income under section 115TD

The existing provisions of the section 49 of the Act provides for computation of cost with reference to certain modes of acquisition of capital asset.

It is proposed to amend said section so as to provide that where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed, and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.

The proposed amendment is consequential in nature.

This amendment will take effect retrospectively from 1st June, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

[Clause 25]

Strengthening of PAN quoting mechanism in the TCS regime

Statuary provisions for deduction of tax at source (TDS) at higher rate of 20% or the applicable rate whichever is higher) in case of non-quoting of Permanent Account Number (PAN) is provided under section 206AA of the Act and it exist since April, 2010. PAN acts as a common thread for linking the information in the departmental data base. It may also be noted that the process of allotment of PAN is made simple and robust. PAN application can be made online and PAN gets allotted in less than a week.

In order to strengthen the PAN mechanism, it is proposed to insert new section 206CC to provide the following:

I. any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB (hereafter referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (hereafter referred to as collector), failing which tax shall be collected at the twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of five per cent. whichever is higher.

II. that the declaration filed under sub section (1A) of section 206C shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.

III. that in case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).

IV. no certificate under sub section (9) of section 206C shall be granted unless it contains the Permanent Account Number of the applicant.

V. the collector knows about the correct PAN of the collectee it is also proposed to provide for mandatory quoting of PAN of the collectee by both the collector and the collectee in all correspondence, bills and vouchers exchanged between them.

VI. that the collectee shall furnish his Permanent Account Number to the collector who shall indicate the same in all its correspondence, bills, vouchers and other documents which are sent to collectee.

VII. where the Permanent Account Number provided by the collectee is invalid or it does not belong to the collectee, then it shall be deemed that Permanent Account Number has not been furnished to the collector.

VIII. to exempt the non-resident who does not have permanent establishment in India from the provisions of this proposed section 206CC of the Act.

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

[Clause 72]

Rationalization of deduction under section 80CCG.

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. This deduction was introduced vide Finance Act, 2012. However considering the fact that limited number of individuals availed this deduction and also to rationalize the multiplicity of deductions available under Chapter VI-A of the Act, 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.

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

[Clause 34]

Restriction on set-off of loss from House property

Section 71 of the Act relates to set-off of loss from one head against income from another. In line with the international best practices 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.

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

[Clause 31]

Reason to believe to conduct a search, etc. not to be disclosed

Sub-section (1) and (1A) of section 132 provide that where an authority mentioned therein, based on the information in his possession, has 'reason to believe' or 'reason to suspect' of circumstances referred to in the said sub-sections, he may authorize an authority specified therein to carry out search & seizure.

Similarly, sub-section (1) of section 132A provides that the specified income-tax authority based on 'reason to believe' can authorise other income-tax authority mentioned therein to requisition from some other officer or authority to deliver books of account, documents or assets of the assessee to the income-tax authority so authorised.

Confidentiality and sensitivity are the hallmarks of proceedings under section 132 and section 132A. However, certain judicial pronouncements have created ambiguity in respect of the disclosure of 'reason to believe' or 'reason to suspect' recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A. It is therefore proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

These amendments will take effect retrospectively from the date of enactment of the said provisions viz. to sub-section (1) of section 132 from 1st day of April, 1962 and to sub-section (1A) of section 132 and to sub-section (1) of section 132A from 1st day of October, 1975.

[Clauses 50 & 51]

Power of provisional attachment and to make reference to Valuation Officer to authorised officer

Section 132 of the Act provides the power of search and seizure subject to fulfilment of conditions specified therein.

In order to protect the interest of revenue and safeguard recovery in search cases, it is proposed to insert sub-section (9B) and (9C) in the said section, to provide that during the course of a search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer on being satisfied that for protecting the interest of revenue it is necessary so to do, may attach provisionally any property belonging to the assessee with the prior approval of Principal Director General or Director General or Principal Director or Director. It has been proposed that such provisional attachment shall cease to have effect after the expiry of six months from the date of order of such attachment.

In order to enable correct estimation and quantification of undisclosed income held in the form of investment or property by the assessee by the Investigation wing of the Department, it is further proposed to insert a new sub-section (9D) in the said section to provide that in a case of search, the authorised officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer referred to in section 142A, for valuation in the manner provided under that sub-section. It also provides that the Valuation Officer shall furnish the valuation report within sixty days of receipt of such reference.

It is also proposed to amend Explanation 1 to section 132, so as to provide that for the purposes of sub-sections 9A, 9B and 9D, with respect to "execution of an authorisation for search" under the provisions of sub-section (2) of section 153B shall apply.

These amendments will take effect from Ist April, 2017.

[Clause 50]

Rationalisation of the provisions in respect of power to call for information

The existing provisions of section 133 empower certain income-tax authorities to call for information for the purpose of any inquiry or proceeding under the Act. The second proviso to the said section provides that the power in respect of an inquiry, in a

case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of the Principal Director or Director or the Principal Commissioner or Commissioner without the prior approval of such authorities.

Considering the requirement of the work profile of the authorities working in the Investigation Directorate, it is proposed to amend the first proviso of the said section and provide that the power in respect of inquiry or proceeding under the Act, as referred to in clause (6) of the said section, may also be exercised by the Joint Director, the Deputy Director and the Assistant Director.

It is further proposed to amend the second proviso of the said section to provide that the Joint Director, the Deputy Director or the Assistant Director may exercise the powers in respect of such inquiry, without seeking prior approval of higher authorities.

These amendments will take effect from Ist April, 2017.

[Clause 52]

Extension of the power to survey

The existing provisions of section 133A empower an income-tax authority to enter any place, at which a business or profession is carried on, or at which any books of account or other documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept, for the purposes of conducting a survey.

It is proposed to widen the scope of the said section by amending sub-section (1) to include any place, at which an activity for charitable purpose is carried on.

This amendment will take effect from Ist April, 2017.

[Clause 53]

Legislative framework to enable centralised issuance of notice and processing of information under section 133C

Section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession.

In order to expedite verification and analysis of the information and documents so received, it is proposed to amend section 133C to empower the Central Board of Direct Taxes to make a scheme for centralised 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 thereof available to the Assessing Officer for necessary action, if any.

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

[Clause 54]

Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C

The existing provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016 (the Scheme), and no declaration in respect of such income is made under the Scheme, then, such income shall be deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and provisions of the said Act shall apply accordingly.

In view of the various representations received from stakeholders citing genuine hardships if the said provision is made applicable, it is proposed to omit clause (c) of section 197 of the Finance Act, 2016.

This amendment will take effect retrospectively from Ist June, 2016.

However, in order to protect the interest of the revenue in cases where tangible evidence(s) are found during a search or seizure operation (including 132A cases) and the same is represented in the form of undisclosed investment in any asset, it is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided upto the tenth assessment year if—

(i) the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year);

(ii) such income escaping assessment is represented in the form of asset;

(iii) the income escaping assessment or part thereof relates to such year or years.

It is however proposed that the amended provisions of section 153A shall apply where search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year or years as referred to in section 153A.

These amendments will take effect from Ist April, 2017.

[Clauses 59, 61, & 150]

Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund

Under the existing provisions contained in clause (23C) of section 10, exemption is provided in respect of income of certain funds which, *inter-alia*, include, the Prime Minister's National Relief Fund.

The Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, referred at sub-clause (iiihf) of clause (a) of sub-section (2) of section 80G, which is of the same nature at the level of state or the Union Territory as is the Prime Minister's National Relief Fund at the national level, is not exempted under the said clause. In the absence of such exemption, these funds are required to obtain registration under section 12A of the Act in order to avail exemption of its income under section 11 and 12 of the said Act and are required to fulfil certain conditions.

Therefore, it is proposed to amend said clause so as to provide the benefit of exemption to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund also.

This amendment will take effect retrospectively from the 1st April, 1998, the date on which sub-clause (iihf) of clause (a) of sub-section (2) of section 80G relating to deduction in any sum paid to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund came into force, and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years.

[Clause 6]

Correct reference to FEMA instead of FERA

Existing sub-clause (ii) of clause 4 of section 10 refers to any income of an individual by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999 (42 of 1999), and the rules made thereunder. The proviso to the said sub-clause refers individual to be a person resident outside India, as defined in clause (q) of section 2 of Act 46 of 1973, i.e., Foreign Exchange Regulation Act, 1973, (FERA) which stands repealed and re-enacted as Act 42 of 1999, i.e., the Foreign Exchange Management Act, 1999 (FEMA). The definition of person outside India is occurring in clause (w) of FEMA.

With a view to reflect the correct definition of the expression "person resident outside India", it is proposed to amend the said proviso. The amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent years.

[Clause 6]

J. BENEFIT FOR NPS SUBSCRIBERS

Tax-exemption to partial withdrawal from National Pension System (NPS)

The existing provision of section 10(12A) provides that payment from National Pension System (NPS) trust to an employee on closer of his account or opting out shall be exempt up to 40% of total amount payable to him.

In order to provide further relief to an employee subscriber of NPS, it is proposed to amend the section 10 so as to provide exemption to partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013 and regulations made there under.

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

[Clause 6]

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.

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

[Clause 33]

CUSTOMS

Note: (a) "Basic Customs Duty" means the customs duty levied under the Customs Act, 1962.

(b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.

(c) "SAD" means the Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.

(d) "Export duty" means duty of Customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.

(e) Clause nos. in square brackets [ ] indicate the relevant clause of the Finance Bill, 2017.

Amendments carried out through the Finance Bill, 2017 come into effect on the date of its enactment unless otherwise specified.

I. AMENDMENTS IN THE CUSTOMS ACT, 1962:

S. No.	Amendment	Clause of the Finance Bill, 2017
1.	Section 2 is being amended to: (a) insert clause (3A) to define a beneficial owner as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported. (b) include Foreign Post Office and International Courier Terminal in the definition of a Customs Station in clause (13); (c) omit certain words in clause (13) to align with the proposed omission of Section 82; (d) provide that the existing definition of exporter in clause (20) includes the beneficial owner; (e) provide that the existing definition of importer in clause (26) includes the beneficial owner; (f) insert clause (30B) so as to define passenger name record information; (g) define Foreign Post Office and International Courier Terminal.	[88]
2.	Section 7 is being amended to empower the Board to notify Foreign Post Offices and International Courier Terminals.	[89]
3.	Section 17 is being amended to rationalize the requirement of documents for verification of self assessment.	[90]
4.	Sub-section (2) of section 27 is being amended so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where- (i) such excess payment is evident from the bill of entry in the case of self-assessed bill of entry or (ii) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.	[91]
5.	Clause (e) of section 28E is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.	[92]

6.	Section 28F is being amended so as to provide that the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act shall be the Authority for giving advance rulings for the purposes of the Customs Act. It further seeks to provide that the Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of Customs Act. It also seeks to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.	[93]
7.	Section 28G relating to vacancies not to invalidate proceedings is being omitted.	[94]
8.	Sub-section (3) of section 28H is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Income-tax Act.	[95]
9.	Sub-section (6) of section 28I is being amended so as to provide time of limit of six months by which Authority shall pronounce its ruling on the lines of the Income-tax Act.	[96]
10.	A new section 30A is being introduced so as to make it obligatory on the person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for imposition of a penalty not exceeding fifty thousand rupees as may be prescribed, in the case of delay in delivering the information.	[97]
11.	A new section 41A is being introduced so as to make it obligatory on the person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew departure manifest and passenger name record information of departing passengers before the departure of the conveyance in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for a penalty not exceeding fifty thousand rupees as may be prescribed in the case of delay in delivering the information.	[98]
12.	Sub-section (3) of section 46 is being substituted so as to make it mandatory to file the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing and to provide for imposition of such charges for late presentation of the bill of entry as may be prescribed.	[99]
13.	Sub-section (2) of section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed bills of entry or, as the case may be, assessed, reassessed or provisionally assessed bills of entry.	[100]
14.	Section 49 is being amended to extend the facility of storage under section 49 to imported goods entered for warehousing before their removal.	[101]
15.	Section 69 relating to clearance of warehoused goods for exportation is being amended to align it with the proposed omission of section 82.	[102]

16.	Section 82 relating to label or declaration accompanying goods to be treated as entry is being omitted.	[103]
17.	Section 84 is being amended to empower the Board to make regulations to provide for the form and manner in which an entry may be made in respect of goods imported or to be exported by post.	[104]
18.	Section 127B is being amended so as to insert a new sub-section (5) therein to enable any person, other than applicant, referred to in sub-section (1) to make an application to the Settlement Commission.	[105]
19.	Sub-section (3) of section 127C is being amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.	[106]
20.	Section 157 is being amended so as to empower Board to make regulations for specifying the form, particulars, manner and time of providing the passenger and crew manifest for arrival and departure and passenger name record information and penalty in the case of delay in delivering the information.	[107]

II. AMENDMENT IN THE CUSTOMS TARIFF ACT, 1975

S. No.	Amendment	Clause of the Finance Bill, 2017
1.	Clause (c) of sub-section (3) of section 9 is being substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations.	[108]

III. AMENDMENT IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

S. No.	Amendment	Clause of the Finance Bill, 2017
A.	**Amendments not affecting rates of duty**	
1.	To: (i) Delete tariff items 1302 32 10 and 1302 32 20 and entries relating thereto and create new tariff items 1106 10 10 and 1106 10 90, in relation to Guar meal and its products to harmonize the Customs Tariff with HS Nomenclature. (ii) Create new tariff item 1511 90 30 for Refined bleached deodorised palm stearin" to harmonize Customs Tariff in accordance with WCO classification decision. (iii) Substitute tariff items 3823 11 11 to 3823 11 90 and entries relating thereto with tariff item 3823 11 00. (iv) Substitute tariff items 3904 10 10 to 3904 22 90 with tariff items 3904 10 10 to 3904 22 00 in relation to the PVC Resin.	[109(b)]
2.	To amend Chapter Note (4) of Chapter 98 so as to remove the non-applicability of headings 9803 and 9804 to goods imported through courier service. Also, to amend heading 9804 so as to extend the classification of personal imports by courier, sea, or land under this heading.	[109(b)]

B.	**Amendments affecting rates of BCD [Clause 109(a) of the Finance Bill, 2017]**	**Rate of Duty**	
	Commodity	**From**	**To**
1.	Cashew nut, roasted, salted or roasted and salted	30%	45%
2.	RO membrane element for household type filters	7.5%	10%

The amendments involving increase in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

IV. AMENDMENT IN THE SECOND SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975 [Clause 110 of the Finance Bill, 2017]

S. No.	**Amendment**		
	Amendments affecting rates of Export duty	**Rate of Duty**	
		From	**To**
	Ores and concentrates		
1.	Other aluminium ores and concentrates	Nil	30%

The above amendment involving increase in the duty rate will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

V. OTHER PROPOSALS INVOLVING CHANGES IN BCD, CVD, SAD AND EXPORT DUTY RATES

S. No.	**Commodity**	**BCD/Excise/CV duty/SAD/Export Duty**	
A.	**Ores and Concentrates**	**From**	**To**
1.	Other aluminium ores, including laterite	Export Duty - Nil	Export Duty – 15%
B.	**Mineral fuels and Mineral oils**		
2.	Liquefied Natural Gas	BCD – 5%	BCD – 2.5%
C.	**Chemicals & Petrochemicals**		
3.	o-Xylene	BCD – 2.5%	BCD – Nil
4.	Medium Quality Terephthalic Acid (MTA) & Qualified Terephthalic Acid (QTA)	BCD – 7.5%	BCD – 5%
5.	2-Ethyl Anthraquinone [29146990] for use in manufacture of hydrogen peroxide, subject to actual user condition	BCD – 7.5%	BCD – 2.5%
6.	Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertors, subject to actual user condition	BCD – 7.5%	BCD – 5%
7.	Vinyl Polyethylene Glycol (VPEG) for use in manufacture of Poly Carboxylate Ether, subject to actual user condition	BCD – 10%	BCD – 7.5%
D.	**Textiles**		
8.	Nylon mono filament yarn for use in monofilament long line system for Tuna fishing, subject to certain specified conditions	BCD – 7.5%	BCD – 5%

E.	**Finished Leather, Footwear and Other Leather Products**		
9.	Vegetable tanning extracts, namely Wattle extract and Myrobalan fruit extract	BCD – 7.5%	BCD – 2.5%
10.	Limit of duty free import of eligible items for manufacture of leather footwear or synthetic footwear or other leather products for use in the manufacture of said goods for export	3% of FOB value of said goods exported during the preceding financial year	5% of FOB value of said goods exported during the preceding financial year
F.	**Metals**		
11.	Co-polymer coated MS tapes / stainless steel tapes for manufacture of telecommunication grade optical fibres or optical fibre cables, subject to actual user condition	BCD – Nil	BCD – 10%
12.	Nickel	BCD – 2.5%	BCD – Nil
13.	MgO coated cold rolled steel coils [7225 19 90] for use in manufacture of CRGO steel, subject to actual user condition	BCD – 10%	BCD – 5%
14.	Hot Rolled Coils [7208], when imported for use in manufacture of welded tubes and pipes falling under heading 7305 or 7306, subject to actual user condition	BCD – 12.5%	BCD – 10%
G.	**Capital Goods**		
15.	Ball screws, linear motion guides and CNC systems for use in manufacture of all CNC machine tools, subject to actual user condition	Ball screws and liner motion guides BCD – 7.5% CNC systems BCD – 10%	BCD – 2.5%
H.	**Electronics / Hardware**		
16.	Populated Printed Circuit Boards (PCBs) for the manufacture of mobile phones, subject to actual user condition	SAD – Nil	SAD – 2%
I.	**Renewable Energy**		
17.	Solar tempered glass for use in the manufacture of solar cells/panels/modules subject to actual user condition	BCD – 5%	BCD – Nil
18.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	CVD – 12.5%	CVD – 6%
19.	Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition	BCD – 7.5% CVD – 12.5% SAD – 4%	BCD – 5% CVD – Nil SAD – Nil
20.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes, subject to certain specified conditions	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%
21.	All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen, subject to certain specified conditions	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%

J.	**Miscellaneous**		
22.	Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition	CVD – 12.5%	CVD – 6%
23.	All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable BCD, CVD	BCD – 5% CVD – 6%
24.	All inputs for use in the manufacture of LED Driver and MCPCB for LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable BCD	5%
25.	De-minimis customs duties exemption limit for goods imported through parcels, packets and letters	Duty payable not exceeding Rs.100 per consignment	CIF value not exceeding Rs.1000 per consignment
26.	Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner	Applicable BCD, CVD SAD	BCD – Nil CVD – Nil SAD – Nil
27.	Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user condition	Applicable BCD, CVD SAD	BCD – Nil CVD – Nil SAD – Nil
28	Silver medallion, silver coins having silver content not below 99.9%, semi-manufactured form of silver and articles of silver	CVD - Nil	CVD – 12.5%
29	Goods imported for petroleum and coal bed methane operations by availing of the benefit of notification No.12/2012-Customs, dated 17.03.2012 [S. No.357A] no longer required for the said purpose are being allowed to be disposed of on payment of applicable customs duties or excise duty, on the depreciated value calculated as per straight line method (subject to depreciated value not being less than 30% of the original value) of such goods.		

EXCISE

Note: "Basic Excise Duty" means the excise duty set forth in the First Schedule to the Central Excise Tariff Act, 1985.

I. AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

S. No.	Amendment	Clause of the Finance Bill, 2017
1.	Clause (e) of section 23A is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.	[111]
2.	Section 23B relating to vacancies not to invalidate proceedings is being omitted.	[112]
3.	Sub-section (3) of section 23C is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Income-tax Act.	[113]
4.	Sub-section (6) of section 23D is being amended so as to provide time of limit of six months by which Authority shall pronounce its ruling on the lines of the Income-tax Act.	[114]
5.	A new section 23-I is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.	[115]
6.	Section 32E is being amended so as to insert a new sub-section (5) therein to enable any person, other than assessee, referred to in sub-section (1) to make an application to the Settlement Commission.	[116]
7.	Sub-section (3) of section 32F is being amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.	[117]

II. AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985 [Clause 118 of the Finance Bill, 2017]

S. No.	Amendment		
	Amendments involving change in the rate of Basic Excise duty	**Rate of Duty**	
	Commodity	**From**	**To**
A.	**Tobacco and Tobacco Products**		
1.	Cigar and cheroots	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher
2.	Cigarillos	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher
3.	Cigarettes of tobacco substitutes	Rs.3755 per thousand	Rs.4006 per thousand

4.	Cigarillos of tobacco substitutes	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher
5.	Others of tobacco substitutes	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher

The amendments involving change in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

III. OTHER PROPOSALS INVOLVING CHANGES IN EXCISE DUTY RATES:

S. No.	Commodity	From	To
	Amendments involving change in the rate of Additional Excise duty under Finance Act, 2005		
B.	**Pan Masala**		
6.	Pan Masala	6%	9%
C.	**Tobacco and Tobacco Products**		
7.	Unmanufactured tobacco	4.2%	8.3%
	Amendments involving change in the rate of Basic Excise duty		
8.	Paper rolled biris – handmade	Rs.21 per thousand	Rs.28 per thousand
9.	Paper rolled biris – machine made	Rs.21 per thousand	Rs.78 per thousand
D.	**Renewable Energy**		
10.	Solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	Nil	6%
11.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	12.5%	6%
12.	Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition	12.5%	Nil
13.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes	12.5%	6%
14.	All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen	12.5%	6%
E.	**Miscellaneous**		
15	Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition	12.5%	6%

17.	All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable duty	6%
18.	Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner	Applicable duty	Nil
19.	Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user condition	Applicable duty	Nil
20.	a. Waste and scrap of precious metals or metals clad with precious metals arising in course of manufacture of goods falling in Chapter 71 b. Strips, wires, sheets, plates and foils of silver c. Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire d. Silver coin of purity 99.9% and above, bearing a brand name when manufactured from silver on which appropriate duty of customs or excise has been paid	Nil	Nil, subject to the condition that no credit of duty paid on inputs or input services or capital goods has been availed by manufacturer of such goods

IV. AMENDMENTS IN THE CENTRAL EXCISE RULES, 2002 AND THE CENVAT CREDIT RULES, 2004

S. No.	Amendment
1.	Sub-rule (2) is being inserted in rule 21 of Central Excise Rules, 2002 so as to provide for a time limit of three months [further extendable by 6 months] for granting remission of duty under the said rule 21 read with section 5 of the Central Excise Act, 1944.
2.	Sub-rule (4) is being inserted in rule 10 of CENVAT Credit Rules, 2004 so as to provide for a time limit of three months [further extendable by 6 months] for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. of the factory.

V. RETROSPECTIVE AMENDMENT

S. No.	Amendment	Clause of the Finance Bill, 2016
1.	To retrospectively [that is with effect from 01.01.2017] specify a tariff rate of excise duty of 12.5% [as against present tariff rate of 27%] on motor vehicles for transport of more than 13 persons falling under tariff items 8702 90 21 to 8702 90 29 of the First Schedule to the Central Excise Tariff Act, 1985.	[119]

VI. AMENDMENTS IN THE SEVENTH SCHEDULE TO THE FINANCE ACT, 2005

[Clause 146 of the Finance Bill, 2017]

S. No.	Amendment		
	Amendments involving change in the rate of Additional Excise duty	**Rate of duty**	
	Commodity	**From**	**To**
A.	**Tobacco and Tobacco Products**		
1.	Non-filter Cigarettes of length not exceeding 65mm	Rs.215 per thousand	Rs.311 per thousand

2.	Non-filter Cigarettes of length exceeding 65mm but not exceeding 70mm	Rs.370 per thousand	Rs.541 per thousand
3.	Filter Cigarettes of length not exceeding 65mm	Rs.215 per thousand	Rs.311 per thousand
4.	Filter Cigarettes of length exceeding 65mm but not exceeding 70mm	Rs.260 per thousand	Rs.386 per thousand
5.	Filter Cigarettes of length exceeding 70mm but not exceeding 75mm	Rs.370 per thousand	Rs.541 per thousand
6.	Other Cigarettes	Rs.560 per thousand	Rs.811 per thousand
7.	Chewing tobacco (including filter khaini)	10%	12%
8.	Jarda scented tobacco	10%	12%
9.	Pan Masala containing Tobacco (Gutkha)	10%	12%

The amendments involving change in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

SERVICE TAX

A.	Legislative changes	Existing	Proposed
1.	The Negative List entry in respect of "services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption", is proposed to be omitted. However, the same entry is being placed in exemption notification No. 25/2012-Service Tax dated 20th June, 2012. Consequently, the definition of '*process amounting to manufacture*' [clause (40) section 65B] is also proposed to be omitted from the Finance Act, 1994 and is being incorporated in the general exemption notification. *(Clauses 120 & 121 of the Bill refers)*	Nil	Nil
2.	Service tax exemption to taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government, is being made effective from 10th day of September, 2004, the date when services of life insurance became taxable (*Clause 127 of the Bill refers*).	14%	Nil
3.	Benefit of the exemption notification No. 41/2016-ST dated 22.09.2016 is being extended with effect from 1.6.2007, the date when the services of renting of immovable property became taxable. Notification No.41/2016-ST dated 22.09.2016, exempts one time upfront amount (called as premium, salami, cost, price, development charges or by whatever name) payable for grant of long-term lease of industrial plots (30 years or more) by State Government industrial development corporations/undertakings to industrial units from Service Tax (*Clause 127 of the Bill refers*).	14%	Nil
4.	Rule 2 A of Service Tax (Determination of Value) Rules, 2006 is being amended with effect from 01.07.2010 so as to make it clear that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land (*Clause 128 of the Bill refers*).	4.2%	4.2%
B.	**Other Legislative Changes regarding Authority for Advance Ruling**	**Clause of Finance Bill, 2017**	
5.	Clause (d) of section 96A is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962.	[122]	
6.	Section 96B relating to vacancies not to invalidate proceedings is being omitted.	[123]	
7.	Sub-section (3) of section 96C is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Central Excise Act.	[124]	
8.	Sub-section (6) of section 96D is being amended so as to provide time limit of six months by which Authority shall pronounce its ruling on the lines of the Central Excise Act.	[125]	
9.	A new section 96HA is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.	[126]	

C.	**New Exemptions**		
1.	Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is being exempted from service tax from 2nd February, 2017.	14%	Nil
2.	The exemption vide S. No. 9B of notification No. 25/2012-ST dated 20.06.2012, is being amended so as to omit the word “residential” appearing in the notification. The exemption remains the same in all other respects. S. No. 9B of notification No. 25/2012-ST exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM.	14%	Nil
3.	Under the Regional Connectivity Scheme (RCS), exemption from service tax is being provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport as notified by Ministry of Civil Aviation.	14%	Nil
D.	**Rationalisation measure**		
1.	Explanation-I (e) for the purpose of sub-rule (3) and (3A) of Rule 6 of Cenvat Credit Rules, 2004 is being amended so as to exclude banks and financial institutions including non-banking financial companies engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the Cenvat Credit Rules, 2004 that value for the purpose of reversal of common input tax credit on inputs and input services used in providing taxable services and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.		