



Analysis of the Finance Act, 2018-Direct Taxes

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Index

S.No	Particulars
1.	Personal Taxation
2.	Corporate Taxation
3.	Capital Gains
4.	Dividend
5.	International Tax & Transfer Pricing
6.	Income Computation and Disclosure Standards
7.	Assessment
8.	Miscellaneous Provisions

PT Personal Tax

Slab Rates

- Income Tax Slab Rates are as under :

Income Slabs	Rate
Upto ₹2,50,000 Upto ₹3,00,000 (For resident Individuals 60 Years or more of age) Upto ₹5,00,000 (For resident Individuals 80 Years or more of age)	Nil
₹2,50,000 to ₹5,00,000 ₹3,00,000 to ₹5,00,000 (For resident Individuals 60 Years or more of age)	5%
₹5,00,000 to ₹10,00,000 (For resident Individuals 80 Years or more of age)	20%
Above ₹10,00,000	30%

(w.e.f. AY 2018-19)

Standard deduction on salary income

- ❑ New clause (ia) inserted to section 16 of the Act, to allow a standard deduction of Rs 40,000/- or the amount of the salary, **whichever is less.**
- ❑ Exemption of Transport allowance of Rs 19200/- p.a. given under existing provision of section 10(14) of the Act withdrawn.
- ❑ Exemption for medical expenses reimbursement of Rs 15000/- p.a. withdrawn by deleting clause (v) of proviso under sub clause (vii) of section 17(2).

(W.e.f. AY 2019-20)

Increase in limit of deduction under section 80D of the Act for senior citizen

- ❑ Section 80D amended to raise the deduction limit in respect of payments towards annual premium on health insurance policy or preventive health check up of senior citizens from Rs 30,000/- to Rs 50,000/-.
- ❑ Sub section 4A inserted to section 80D to provide deduction for single premium health insurance policies having cover of more than one year on proportionate basis over the period of the policy.

(W.e.f. AY 2019-20)

Increase in limit of deduction under section 80DDB for senior citizens:

- ❑ Section 80DDB amended to raise the deduction limit with regard to amount paid for medical treatment of specified disease in respect of very senior citizen and senior citizen from Rs 80,000/- & Rs 60,000/- respectively to Rs 100,000/-.

(w.e.f. AY 2019-20)

NPS withdrawal benefit to Non-employees subscribers

- ❑ Assessee other than employee contributing to the NPS shall be allowed an exemption in respect of 40% of the total amount payable to him on closure of his account or on his opting out by inserting clause (12A) to section 10.

(w.e.f. AY 2019-20)

Deduction in respect of interest income to senior citizen

- ☐ New section 80TTB inserted to allow deduction for interest income from deposits with bank, cooperative bank or post office to senior citizens upto Rs 50,000/-
- ☐ Under the existing provision of the Act, deduction upto Rs 10,000/- is allowed under section 80TTA of the Act, to an assessee in respect of interest income from saving account. Senior citizen claiming deduction under section 80TTB cannot claim deduction under section 80TTA

(W.e.f. AY 2019-20)

- ☐ Section 194A amended to raise the threshold limit for deduction of Tax at source on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-.

(W.e.f. AY 2019-20)



Tax Rates

☐ In case of Domestic Companies

- ☐ The rate of Income tax for A.Y. 2019-20 is reduced to **25%** of the total income if the total turnover or gross receipts of the **previous year 2016-17** does not exceed **Rs. 250 crore**.
- ☐ In all other cases tax rate shall remain at 30%.
- ☐ The Education cess and Secondary and Higher Secondary Education Cess chargeable at the rate of 3% is replaced with Health and Education cess on income tax chargeable at the rate of 4%.

Rationalisation in tax of newly set up domestic companies (Sec 115BA)

- ❑ As per section 115BA under chapter XII, all the income other than income referred to in S. 111A and 112 (Capital Gains) in case of a newly set up domestic company engaged in specified business shall, at its option, be taxed at the rate of 25 per cent.
- ❑ However, it is now clarified that all the incomes under chapter XII which are at present taxed at a scheduler rate will continue to be so taxed. The intention is to tax income from manufacture or production of articles or things @ 25%.

(Retrospectively w.e.f. AY 2017-18)

Compensation in connection with business or employment

- ❑ Section 28 amended to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract **relating to its business** shall be taxable as business income.
- ❑ Any compensation received or receivable, whether **in the nature of revenue or capital**, in connection with the termination or the modification of the terms and conditions of any contract **relating to its employment** shall be taxable under section 56 of the Act.

(w.e.f. AY 2019-20)

Compensation in connection with business or employment

- ❑ The new provision has overruled the following decisions wherein the compensation received was treated as capital receipt on termination of contract –
 - ❑ HCL Infosystems Ltd (TS – 5594 – HC-2015 (Delhi))
 - ❑ Elegant Chemicals Enterprises Private Ltd (91 ITD 85 – HYD ITAT)
 - ❑ Pritam Das Narang (TS – 5492- HC- 2015)

(w.e.f. AY 2019-20)

Presumptive Tax in case of goods carriage

- ❑ The current presumptive income scheme u/s 44AE is applicable uniformly to all classes of goods carriages irrespective of their tonnage capacity and the assessee should not own more than 10 goods carriages at any time during the previous year.
- ❑ Accordingly, the transporters who own (less than 10) **large capacity goods** carriages are also availing the benefit of section 44AE.
- ❑ Section 44AE of the Act is amended to provide that, in the case of heavy goods vehicle (**more than 12MT gross vehicle weight**), the income would be deemed to be an amount equal to Rs. 1000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle **or the amount claimed to be actually earned by the assessee, whichever is higher**. The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.

(W.e.f. AY 2019-20)

Deduction not to be allowed unless return furnished

- ❑ Under the existing provisions, deductions u/s 80IA, 80IAB, 80IB, 80IC, 80ID and 80IE shall be allowed only if return is filed on or before the due date specified u/s 139(1).
- ❑ It is now provided that all income based deductions under subchapter – C of chapter VI-A shall be allowed only if return is filed on or before due date specified u/s 139(1).

(w.e.f. AY 2018-19)

Section 115BBE – Tax at Higher Rate of 60%

- ❑ S.115BBE(1)(a) provides for tax on income referred to in sections 68, 69, 69A, 69B, 69C or 69D and reflected in the return of income at a higher rate of 60% (without allowing any deduction or loss in computing the income.)
- ❑ S.115BBE(1)(b) provides for taxation of income referred to in sections 68, 69, 69A, 69B, 69C or 69D, **determined by AO** @ 60% if such income is not covered under clause (a) above.
- ❑ Section 115BBE(2) is amended to provide that no deduction shall be allowed in respect of income determined under 115BBE(1)(b).
- ❑ The section as it exists provides for not allowing any deduction in respect of income declared in the return of income u/s. 115BBE(1)(a)

(w.r.e.f AY 2017-18)

Relief from MAT liability for companies seeking insolvency resolution

- ❑ Section 115JB provides deduction in respect of the amount of loss brought forward or unabsorbed depreciation **whichever is less** as per books of account. Where either brought forward loss or unabsorbed depreciation is Nil, no deduction is allowed.
- ❑ Section 115JB is amended to provide that **aggregate amount** of unabsorbed depreciation and loss brought forward (excluding Unabsorbed Depreciation) shall be allowed to be reduced from the book profit of the company whose application under Insolvency and Bankruptcy Code, 2016 has been admitted by adjudicating authority.
(W.e.f. AY 2018-19)
- ❑ Section 115JB has been amended to clarify that the aforesaid section shall not be applicable to foreign company if its total income comprises solely of profits and gains from business referred to in section 44B,44BB,44BBA,44BBB.

(w.r.e.f AY 2001-02)

Non applicability of Section 79 to companies seeking insolvency resolution

- ❑ Section 79 of the Act provides that carry forward and set off of losses in case of a closely held company shall be allowed, only if there is a continuity in the beneficial ownership of shares carrying not less than 51% of the voting power on the last day of the year or years in which loss was incurred.
- ❑ It is now provided that section 79 will not apply to company whose resolution is approved under ***Insolvency and Bankruptcy Code, 2016***
- ❑ Consequent amendment is also made to section 140 of the Act to provide that during resolution process under the above code the return shall be verified by an insolvency professional appointed by adjudicating authority under the said code.

(w.e.f AY 2018-19)

Deduction for Farm Producer Companies

- ☐ Section 80PA has been inserted.
- ☐ It provides for 100% deduction of the profits and gains attributable to eligible business to producer company whose turnover is less than 100 crores.
- ☐ “Eligible Business “ means:-
 - a. The marketing of agricultural produce grown by the members; or
 - b. The purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or
 - c. The processing of the agricultural produce of the members;
- ☐ This benefit shall be available from AY 2019-20 to AY 2024-25

(W.e.f. AY 2019-20)

Deduction in respect of employment of new employees

- ❑ In the Existing provision the minimum period of employment of new eligible employees is 240 days except for assessee who is engaged in the business of manufacturing of apparel.
- ❑ The words “ or footwear or leather products are inserted” to proviso to clause (ii) of explanation (ii) of section 80JJAA. So the minimum period of employment of 150days is extended to footwear & leather industry.
- ❑ A proviso is inserted to allow the benefit of 30% deduction for new employees who are employed for less than the minimum period during the previous year but continue to remain employed for minimum period in subsequent year.

(W.e.f. AY 2019-20)

Non-speculative transactions

- ❑ In the Existing provision of the Act since CTT is not paid on agricultural commodity derivative, such transactions are held to be speculative transactions.
- ❑ It is now provided that agricultural commodity derivative will not be regarded as speculative transaction though it is not chargeable to CTT, in recognised stock exchange or registered association.

(W.e.f. AY 2019-20)



Long Term Capital Gains – Equity Shares

- ❑ Any transfer of Long Term Capital Asset being equity shares of a company or a unit of equity oriented fund or a unit of business trust through recognised stock exchange and which is subject to STT is exempt under section 10(38) of the Act.
- ❑ The exemption given under section 10(38) has been withdrawn and new Section 112A has been introduced to provide that long term capital gains arising from transfer of a long term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% of such capital gains exceeding Rs. 1,00,000/-.

(W.e.f. AY 2019-20)

Long Term Capital Gains – Equity Shares

- ❑ Example:
 - ❑ Total Income – Rs. 10,00,000
 - Business Income – Rs 8,50,000
 - Long Term Capital Gains on transfer of Equity shares – Rs. 1,50,000
- ❑ As per section 112A, amount exceeding Rs. 1,00,000 will be taxable at 10%. Therefore, Rs. 5000 (10% of 1,50,000 – 1,00,000) will be taxable under head Capital Gains.
- ❑ Balance Rs. 8,50,000 (Rs. 10,00,000 – 1,50,000) will be taxable as Business Income.

Long Term Capital Gains – Equity Shares

- ❑ Section 112A provides that the concessional rate of 10% will be applicable to such long term capital gains, if—
 - i) in a case where long term capital asset is in the nature of an equity share in a company , securities transaction tax has been paid on both acquisition and transfer of such capital asset; and
 - ii) in a case where long term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, securities transaction tax has been paid on transfer of such capital asset.

(w.e.f. AY 2019-20)

Long Term Capital Gains – Equity Shares

- ❑ “equity oriented fund” has been defined to mean a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 and,—
 - a) In a case where the fund invests in the units of another fund which is traded on a recognized stock exchange,—
 - (I) A minimum of 90 per cent. of the total proceeds of such funds is invested in the units of such other fund ; and
 - (II) such other fund also invests a minimum of 90 per cent. of its total proceeds in the equity shares of domestic companies listed on recognized stock exchange; and
 - b) in any other case, a minimum of 65 per cent. of the total proceeds of such fund is invested in the equity shares of domestic companies listed on recognized stock exchange.

Long Term Capital Gains – Equity Shares

- ❑ In a case where Units of an Equity Oriented Fund are invested in other Equity Oriented Fund (i.e. one fund investing in another fund), it shall be treated as Long Term if it is held for a period exceeding 12 months.

Long Term Capital Gains – Equity Shares

- ❑ Under section 48, the LTCG will be computed without giving any indexation benefit on cost of acquisition and cost of improvement, if any, and the benefit of computation of capital gains in foreign currency in the case of a non-resident, will not be allowed.
- ❑ The cost of acquisition under section 55 in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of –
 - a) the actual cost of acquisition of such asset; and
 - b) the lower of –
 - (I) the fair market value of such asset as on 31st January, 2018; and
 - (II) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(W.e.f. AY 2019-20)

Long Term Capital Gains – Equity Shares

❑ Fair market value has been defined to mean –

- a) in a case where the capital asset is listed on any recognized stock exchange, the highest price of the capital asset quoted on such exchange on the 31st January, 2018. However, where there is no trading in such asset on such exchange on the 31st January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded on such exchange shall be the fair market value; and
- b) in a case where the capital asset is a unit and is not listed on recognized stock exchange, the net asset value of such asset as on the 31st day of January, 2018.
- c) In case where the equity shares are not listed on 31st January, 2018 but listed on the date of transfer, the FMV of such shares shall be indexed for the period upto FY 2017-18.

(W.e.f. AY 2019-20)

Long Term Capital Gains – Equity Shares

❑ Example:

❑ Equity Shares Acquired through recognised stock exchange on 01/06/2016 – Rs 500

❑ Fair Market Value on 31/01/2018 – Rs1200

❑ Sold on 30/04/2018 – Rs 1000

Computation of LTCG –

Sale Consideration - 1000

Less: COA - 1000 NIL

(Higher of the following –

a) Actual COA

b) Lower of the following

- FMV and

- Full Value of consideration received)

Long Term Capital Gains – Equity Shares

- ❑ In case of Foreign Institutional Investor, as per section 115AD, any long term capital gains (LTCG) arising from transfer of long term capital asset being equity shares of a company or a unit of equity oriented fund or a unit of business trust, is exempt from income-tax under clause (38) of section 10 of the Act.
- ❑ The exemption under section 10(38) has been withdrawn and, therefore, such LTCG will be taxable at the rate of 10% on such income exceeding Rs. 1,00,000/- as per section 112A of the Act.

(W.e.f. AY 2019-20)

Stamp Duty Valuation for Capital Gain

- ❑ At present, while taxing income from capital gains (section 50C), business profits (section 43CA) and other sources (section 56) arising out of transactions in immovable property, the sale consideration or stamp duty value, whichever is higher is adopted.
- ❑ Now, it is provided that no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than five percent of the sale consideration.
- ❑ For example, Mr. X transfers his property to Mr. Y for Rs. 100 crores. Stamp duty value of the said property is Rs. 105 crores. Now as per the amendment, the value of consideration shall be **Rs. 100 crores** u/s 50C for capital gain computation as the difference is not more than 5% of the consideration. On the same line, there is no income u/s 56(2)(x) in the hands of Mr. Y and cost of acquisition u/s 48 for Mr. Y shall be Rs. 100 crores

(w.e.f. AY 2019-20)

Conversion of Stock-in-trade into Capital Asset

- ❑ When any stock-in-trade is converted into capital asset, the same will be subject to tax in following manner;
 - i) **Business Income** :- Fair Market value on the date of conversion determined in the prescribed manner.
 - ii) **Capital Gain** :- Sale Consideration less Fair Market Value on the date of conversion as determined in the prescribed manner.
 - iii) Period of holding u/s 2(42A) shall be reckoned from the date of conversion.
- ❑ It is clarified that the FMV shall be treated as actual cost of the asset for the purpose of computing depreciation, if such converted asset is used for the purpose of business or profession.
- ❑ In the absence of specific provision to tax the difference in the previous year of sale/transfer of the asset, the difference will be taxable in the previous year of conversion. The cost of the stock shall be allowable as deduction u/s. 37(1).

(w.e.f. AY 2019-20)

Conversion of Stock-in-trade into Capital Asset

- ❑ The amendment confirms the Chennai ITAT ruling in the case of Deensons Trading Co Ltd. v ITO – (81 taxmann.com 71) wherein it was held that when stock in trade is converted into capital asset, holding period be counted from date of conversion and not from date of acquisition.
- ❑ For example, Mr. X having Jewellery business decides to convert Jewellery into capital asset;
 - a) Purchase of Jewellery on 01.01.2015 :- Rs. 1,00,000/-
 - b) Conversion of Jewellery into capital asset :- 01.05.2018
 - c) FMV of Jewellery on 01.05.2018 :- Rs. 3,00,000
 - d) Sale of Jewellery on 01.01.2019 :- Rs. 8,00,000

Now in above example, Mr. X will pay tax in F.Y. 2018-19 on following income;

- A) Business Income :- Rs. 2,00,000 (Rs. 3,00,000 – Rs. 1,00,000)
- B) Capital Gain :- Rs 5,00,000 (Rs. 8,00,000 – Rs. 3,00,000)

Tax Neutral Transfers

- ❑ Section 47 (iv) & (v) i.e. any transfer of property from a company to its subsidiary and vice versa, provides for tax neutral transfers.
- ❑ Section 56 also excludes income arising out of certain tax neutral transfers from its ambit.
- ❑ However transfers under section 47(iv) & (v) are not excluded under section 56.
- ❑ In order to facilitate the transaction of money or property between wholly owned subsidiary and its holding company, such transfers are now excluded from the purview of S. 56.

(w.e.f AY 2018-19)

International Financial Service Centre (IFSC)

- ☐ New clause (viia) has been added to section 47, to provide for exemption of the transfer of following capital assets from the definition of transfer:
 - a. Bond or Global Depository Receipt referred to section 115(1) of the Act;
 - b. Rupee denominated bond of an Indian company
 - c. Derivative.carried on recognized stock exchange located in IFSC by a non resident for which consideration is paid or payable in foreign currency.
- ☐ Sub-section 4 has been inserted to section 115JC, the alternate minimum tax shall be charged at 9% to the unit located in an IFSC.
- ☐ The relevant consequential amendments regarding the definition given under section 115JF have been made.

(W.e.f. AY 2019-20)

Section 54EC – Investment in Bonds

- ❑ Section 54EC of the Act provides that capital gain arising from the transfer of a long term capital asset, invested in long – term specified asset at any time within a period of six months after the date of transfer, shall not be charged to tax subject to certain conditions specified in said section.
- ❑ Section 54EC has been amended to restrict this exemption to capital assets being land or building or both.
- ❑ Long term specified asset, for making any investment under the said section shall mean any bond redeemable after 5 years and issued on or after 01/04/2018 by NHAI or RECL or bond notified by the CG.
- ❑ Also, the lock-in period for such specified securities is amended from 3 years to 5 years u/s 54EC(2) of the Act.

(w.e.f AY 2019-20)



Deemed Dividend

- ❑ As per Section 2(22) of the Act, deemed dividend is taxable to the extent to which the company possesses accumulated profit.
- ❑ Explanation 2 defines the term 'accumulated profits' as all the profits of the company up to the date of distribution or payment or liquidation, subject to certain conditions. In the case of an amalgamated company, the accumulated profits of the amalgamating company prior to amalgamation were not included in the accumulated profits of the company.
- ❑ New Explanation 2A has been inserted to provide that in the case of an amalgamated company, accumulated profits, whether capitalized or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation

(W.e.f. AY 2018-19)

Deemed Dividend

- ❑ Ahmedabad ITAT decision in the case of Gautam Sarabhai Trust No. 23 (81 ITD 677) overruled wherein it was held that accumulated profits whether capitalised or not held by the amalgamating companies which are separate independent entities, cannot by any stretch of imagination be treated as accumulated profits or capitalized profits of the amalgamated company.
- ❑ As regards the surplus in capital reserve account, the same was merely a paper surplus and could not be treated as revenue gain or liable to capital gains tax, hence rightly excluded the said reserve from the purview of accumulated profits u/s. 2(22)(d).

Dividend Distribution Tax

- ❑ Any dividend distributed by a domestic company is subject to Dividend Distribution Tax (DDT).
- ❑ However, no DDT is payable by a company on deemed dividend specified under section 2(22)(e) and such dividend is taxable in the hands of the recipient at applicable rates.
- ❑ It is now amended that DDT shall be payable at the rate of 42.86% (i.e. 30% without grossing up) on deemed dividend as specified under section 2(22)(e)
- ❑ The controversy whether such dividend will be taxable in the hands of the concern in which the shareholder has substantial interest and to which loan is given by the company or in the hands of the shareholder has come to an end although Delhi High Court held that it would be taxable in the hands of the shareholder(CIT v Ankitech Pvt. Ltd. 340 ITR 129)

(W.e.f. AY 2018-19)

Dividend Distribution Tax on dividend payouts to unit holders in an Equity Oriented Fund

- ❑ Section 115R, provides that any amount of income distributed by the specified company or Money Market Mutual Fund or Liquid Fund to its unit holders shall be liable to pay additional income-tax on such distributed income at the rate specified in the section.
- ❑ The amended section now provides that where any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional tax at the rate of 10% on income so distributed.
- ❑ “Equity Oriented Fund will have the same meaning as assigned to it in the newly introduced section 112A of the Act.

(W.e.f. AY 2018-19)



International Taxation

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Business Connection

- ❑ Under the existing provisions of Explanation 2 to section 9(1)(i), "business connection" includes business activities carried on by non-resident through dependent agents and agents who habitually conclude contracts on behalf of the non resident.
- ❑ It is proposed to amend Section 9(1)(i) to provide that “ business connection” shall also include any business activities carried out through
 - ❑ a person who, acting on behalf of the non-resident, habitually concludes contracts or **habitually plays the principal role leading to conclusion of contracts** by the non-resident . It is further proposed that the contracts should be-
 - (i) in the name of the non-resident; or
 - (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or
 - (iii) for the provision of services by that non-resident.

Business Connection – Significant Economic Presence

- ❑ The scope of existing provisions of section 9 (1)(i) is restrictive as it essentially provides for physical presence based nexus rule for taxation of business income of the non-resident in India.
- ❑ Emerging business models such as digitized businesses, which do not require physical presence of itself or any agent in India, is not covered within the scope of clause section 9 (1)(i) of the Act.
- ❑ It is proposed to amend section 9(1)(i) of the 'Act to provide that 'significant economic presence' in India shall also constitute business connection'.

(W.e.f. AY 2019-20)

Business Connection – Significant Economic Presence

- ❑ “significant economic presence” for this purpose shall mean-
 - (i) any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or
 - (ii) systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

(W.e.f. AY 2019-20)

Business Connection – Significant Economic Presence

- ❑ The transactions or activities shall constitute significant economic presence in India, whether or not
 - ❑ the non-resident has a residence or place of business in India; or
 - ❑ renders services in India; or
 - ❑ the agreement for such transaction or activities is entered into in India
- ❑ Only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India
- ❑ Further, it is also clarified that unless corresponding modifications to PE rules are made in the DTAAs, the cross border business profits will continue to be taxed as per the existing treaty rules.

(W.e.f. AY 2019-20)

Payments to non resident for royalty and fees for technical services by National Technical Research Organisation (NTRO) to be exempt

- ☐ It clause 6D to section 10 of the Act is inserted, so as to provide that the income arising to non resident, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation (NTRO) will be exempt from Income Tax.
- ☐ NTRO will not be required to deduct tax at source on such payments.

(W.e.f. AY 2018-19)

Transfer Pricing – CbCR

- ❑ The amendments will improve the effectiveness and reduce the compliance burden on tax payer. The amendments are effective from AY 2017-18.
- ❑ Due date for filing of Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is extended to twelve months from the end of reporting accounting year;
- ❑ **Obligation on constituent entity resident in India to furnish CbCR in case its parent entity outside India has no obligation to file CBCR. Due date for furnishing the CbCR shall be within the period as may be specified;**
- ❑ The due date for furnishing of CbCR by the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;
- ❑ Definition of terms “Agreement” and “reporting accounting year” have been rationalised.



ICDS

Income Computation and
Disclosure Standards

Income computation and disclosure Standards

- ☐ Recent judicial pronouncements have raised doubts on the legitimacy of the notified ICDS.
- ☐ However, a large number of taxpayers have already complied with the provisions of ICDS for computing income for assessment year 2017-18.
- ☐ In order to regularise the compliance with the notified ICDS by a large number of taxpayers so as to prevent any further inconvenience to them, it is amended retrospectively with effect from 1st April, 2017 i.e. the date on which the ICDS was made effective and will, accordingly, apply in relation to Assessment year 2017-18 and subsequent assessment years.

(W.r.e.f. AY 2017-18)

Income computation and disclosure Standards

- ❑ Clause (xvii) added to section 36(1) to provide that, marked to market loss or other expected loss as computed in the manner provided in ICDS notified shall be allowed as a deduction.
- ❑ Section 40A amended to provide that no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except as allowable under newly inserted 36(1)(xvii)
- ❑ New section 43AA introduced to provide that, subject to the provisions of section 43A, any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss.
- ❑ Securities held as inventory by schedule banks or public financial institutions shall be valued in accordance with ICDS and guidelines issued by RBI.

(W.r.e.f. AY 2017-18)

Income computation and disclosure Standards

- ❑ New section 43CB inserted to provide that profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method except for certain service contracts, and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.
- ❑ New section 145B inserted to provide that.
 - a. interest received by an assessee on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received.
 - b. the claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.
 - c. income referred to in section 2 (24)(xviii) (subsidy, grant, cash incentive etc.) shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.



ASSESSMENT

New Scheme for Scrutiny Assessment - Section 143(3)

- ❑ Section 143(3) empowers AO for assessment of total income or loss of assessee and determine sum payable or refund due by making an order in writing.
- ❑ Sub section 3A inserted enabling Central Government to prescribe new scheme for scrutiny assessments by notification with the intent to:-
 - a) eliminate interface between AO and assessee in the course of proceeding to the extent technologically feasible.
 - b) Optimize utilization of resources
 - c) Introduce team based assessment with dynamic jurisdiction
- ❑ Sub section 3B introduced enabling Central Government to give effect to the scheme under sub section 3A with exceptions, modifications and adaptations as specified in the notification.

(w.e.f April 2018)

Assessment under section 143(1)

- ❑ Section 143(1)(a)(vi) of the Act provides for adjustment in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.
- ❑ With a view to restrict the scope of adjustments, a new proviso is inserted to the said clause to provide that no adjustment under sub-clause (vi) of the said clause shall be made in respect of any return furnished on or after 1st day of April, 2018.

(w.e.f. AY 2018-19)



Miscellaneous

Trust – Application of Income and TDS

- ❑ At present, there are no restrictions on payments made in cash by charitable or religious trusts or institutions. Further, there are no provisions to check whether such trusts or institutions follow the provisions of deduction of tax at source under Chapter XVII-B.
- ❑ It is amended that where TDS is not deducted on any payment made in cash exceeding Rs. 10,000, such payment will not be treated as an Application of Income and will be disallowed on the same lines as section 40(a)(ia) and 40A(3) and (3A).

(W.e.f. AY 2019-20)

Commodity Transaction Tax

- ❑ It is proposed to levy commodities transaction tax ('CTT') @ 0.0001% on **sale of an option on commodity derivative**, where option is exercised.
- ❑ It is further proposed that aforesaid CTT shall be payable by the purchaser.

(w.e.f. AY 2018-19)

Failure to furnish returns of income

- ❑ Under existing provisions, if tax payable by assessee on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees then such assessee shall not be punished u/s 276CC.
- ❑ It is now amended that aforesaid proviso to section 276CC shall not apply to **companies** in order to prevent misuse of the same by shell companies or companies holding benami properties.

(w.e.f. AY 2018-19)

Application for Permanent Account Number

- ☐ The following persons will be required to apply for PAN w.e.f. A.Y. 2018-19
- ☐ It is proposed that **every resident person, other than individual**, which enters into a **financial transaction of an amount aggregating to Rs. 2,50,000 or more** in a financial year shall be required to apply to the Assessing Officer for allotment of PAN by the end of the FY in which it enters into such transaction.
- ☐ Further, in order to link the financial transaction as mentioned above, every person who is Managing Director, Director, Partner, Trustee, Author, Founder, Karta, Chief Executive Officer, Principal Officer or Office Bearer shall also apply to AO for PAN

(W.e.f. AY 2018-19)

Incomes which do not form Part of Total Income

- ❑ In the existing provision of the Act the benefit of exemption under section 10(48) is available only on sale out of the leftover stock of crude in case of expiry of the said agreement or the arrangement.
- ❑ The following words are added, “or on termination of the said agreement or the arrangement in accordance with the terms mentioned therein”. Thus benefit of exemption will be extended on termination also provided it is in accordance with the terms mentioned there.

(W.e.f. AY 2019-20)

Thank you...

