

Amendments pertaining to A.Y.2018-19 for preparing return of income(Legal aspects)

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Amendments pertaining to A.Y.2018-19 for preparing return of income

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Rates of Taxes

- Income Between 2.5 lacs to 5 lacs – tax rate is ~~10%~~ 5%
- **Surcharge on Income Tax** – Surcharge has been increased in case of **Individuals/HUF/AOP/BOI/AJP**:
 - If Total Income \leq 50 lacs = NIL
 - If Total Income $>$ 50 lacs to 1 Cr = 10%
 - If Total Income $>$ 1 Cr = 15%
- Rebate u/s.87A for resident individual, whose total income does not exceed Rs.3.5 lakh (earlier 5 lacs), quantum of rebate is 100% of income tax or Rs.2500 (earlier Rs.5000) whichever is lower.
- In case of Domestic companies, whose total turnover or gross receipt in the **previous year 2015-16** does not exceed **Rs.50 Cr.** will be taxable at the rate of 25%

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➤ Section 23(5)

The new inserted sub section (5) to section 23 is applicable if the following conditions are satisfied -

- where the property consisting of any building and land appurtenant thereto is held as stock-in-trade
- 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*.

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➤ Section 71(3A)

- Till A.Y.2017-18, for let out property, the entire loss from the said property could be adjusted against Other Income (without any limit).
- The sub section (3A) to section 71 is newly inserted to provide that that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to Rs.2 lakh 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 section 71B

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- **Highest depreciation rates are restricted to 40% effect from 01.04.2017**
- As per amended Rule 5 (New Appendix I) the depreciation allowance u/s 32(1)(ii) in respect of any block of assets entitled to more than 40%, shall be restricted to 40% on the written down value of such block of assets.
- Includes assets such as computers (eligible for depreciation at 60%), energy saving devices (80%), renewable energy devices like solar or windmill (80%) or air/water pollution control equipment (100%), etc for which rates are substituted at 40%.

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Relating to cash transactions

- The limit for payment of expenses by Cash Under **Section 40A(3) and 40A(3A)** has been reduced from **20,000 to Rs.10,000** per day in aggregate per person. The said limit is not applicable to payment of Rs.35,000/- made to transporter.
- Till A.Y.2017-18, the provision for cash payment was not applicable to capital expenditure.
Now, the limit for any cash payment against expenses made to a single person in a day is Rs 10,000. Also, cash payment made against capital expenditure on asset for more than Rs. 10,000 will not be added in the cost of the asset.(**section 43(1)**)

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Relating to cash transactions

- Till A.Y.2017-18, deduction for cash donation was allowed upto Rs. 10,000/-. Now, Cash donations exceeding Rs.2,000 will *not be eligible for deduction* under *Section 80G*.
- No person shall accept amount of Rs.2,00,000 or more by Cash either in one transaction or from one person in aggregate in a day or in relation to one event or occasion from a person. (**Section 269ST**) In case of default equivalent penalty shall be leviable U/s 271DA of Income Tax Act.

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➤ Section 43B

- 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.

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➤ Section 44AA

If income from Business or Profession in case of Individual and HUF for the A.Y.2018-19:

- is more than ~~Rs.125000/-~~ Rs 2,50,000/- OR
- if total sales from Business or Profession in the financial year is more than ~~Rs.10,00,000~~ Rs.25,00,000 there is need to maintain the books of accounts.

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➤ **Section 44AB vis-à-vis 44AD**

From A.Y.2017-18, the threshold limit for section 44AD was increased to Rs. 2cr. However, no corresponding amendment was carried out in section 44AB, by press release dt.20.06.2016 it was clarified that the assessee who opts for 44AD(1) he shall not be required to get his accounts audited u/s. 44AB.

No corresponding amendments have been carried out under the provisions relating to TDS. Therefore, respective TDS provisions are applicable for A.Y.2018-19, if Individual/HUF has turnover of more than 1 crore for the A.Y.2017-18.

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➤ Section 2(42A)

Till A.Y.2017-18, immovable property, being land and building or both were considered as Long Term Capital Asset after holding it for more than 36 months.

From A.Y. 2018-19, as per new proviso to said section, immovable property, being land and building or both will be classified as Long term Capital Asset after holding it for more than **24 months**.

➤ Final Status

- Listed Shares / Units of UTI /Equity Oriented MF/ Zero Coupon Bonds → 12 months
 - Unlisted Shares and Immovable property → 24 months
 - Other Assets → 36 months
- In case of conversion of preference shares into equity shares, the period of holding of equity shares shall include the period of preference shares.

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➤ Section 10(38)

- Exemption under section 10(38) will not be available if equity share acquired on or after 01.10.2004 is not chargeable to STT.
- However, it shall not apply to the cases notified vide notification no. 43/2017 dated 05.06.2017 (e.g. IPO, Bonus, Right issue, ESOP, acquisition under SEBI regulation, approved by Court, NCLT, RBI, etc)
- The reason for the amendment is on account of the provisions the said section was misused by certain persons (e.g penny stocks)

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➤ **New Section 50CA :**

- Earlier, capital gains on transfer of unquoted shares was computed taking into account full value of consideration received or accrued.
- As per new section, if the consideration received on transfer of shares of co. being unquoted shares is less than FMV than, FMV will deemed to be full value of consideration for the purpose of computing income under the head capital gains.

➤ **Section 54EC**

- Upto A.Y.2017-18, investment in bonds issued by NHAI or RECL only are eligible for exemption under this section.
- Investment in bond issued by other authority and which is notified by the Central Government i.e. Power Finance Corporation and Indian Railway Finance Corporation.

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➤ Section 55

- In order to revise the base year for computation of capital gains, amendment under section 55 r.w.s. 48 and 49 is made.
- The cost of acquisition of an asset acquired before 01.04.2001 is allowed to be taken as fair market value as on 01.04.2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001. (earlier it was 01.04.1981)

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- **New Section 45(5A) & 49(7) : Special Provision in case of Joint development agreement**
 - Applicability to Individual and HUF
 - Transfer of land/building to developer by individual/HUF.
 - Individual/HUF enters into **specified agreement** with developer
 - **Specified agreement** means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

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- **New Section 45(5A) & 49(7) : Special Provision in case of Joint development agreement**
 - For computing Capital gains, 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.
 - For this purpose, stamp duty value will be value on the date of issuing of completion certificate
 - Taxable in the year in which completion certificate is received for the whole or part of the project is issued by the competent authority

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- **New Section 45(5A) & 49(7) : Special Provision in case of Joint development agreement**
- Benefit of this section 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 and capital gains shall be deemed to be the income of the previous year in which transfer took place
- Consequential amendment is made in section 49 by inserting sub-section (7) 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.

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- **Section 56(2)(x)**
- Upto A.Y.2017-18, provisions of section 56(2) were applicable to Individual, HUF, Firm or Company
- From A.Y.2018-19, a new clause (x) is inserted 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"

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➤ Section 56(2)(x)

From A.Y.2018-19 the provisions are not applicable if the money/property is received from the following persons also;

- by way of transaction not regarded as transfer i.e scheme of amalgamation/merger of foreign co./ banking co or reorganization of co-operative bank (*Section 47 (vi)/(vib)/(via) (vic) (viaa) (vica)*)
- by a trust created or established solely for the benefit of relative of the individual

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➤ **Section 58(1A)**

- Upto A.Y.2017-18, disallowance pertaining to TDS default covered by section 40(a)(ia) was not applicable for computation under "Income from other sources"
- From A.Y.2018-19, provisions of section 40(a)(ia) shall 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"

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➤ Section 10A/10AA

Exemption provision or deduction provision

To resolve the controversy, section 10AA has been amended to determine deduction u/s.10AA;

- Step 1: Find out total income of assessee (before giving effect u/s.10AA)
- Step 2: From income as per step 1, amount deductible u/s.10AA to be deducted

Amount of deduction will be income as per step 1 or amount deductible *whichever is less*

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Amendments made in Finance Act 2018 applicable from A.Y.2017-18 onwards

Section 145A & 145B substituted for old section 145A

Section 145A (Method of accounting in certain cases)

- the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the ICDS;
- the valuation of purchase and sale of goods **or services** and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods **or services** to the place of its location and condition as on the date of valuation;
- the inventory being securities not listed, or listed but not quoted with regularity from time to time, shall be valued at actual cost initially recognised as per ICDS;
- Inventory being securities held by schedule bank or FI shall be valued in accordance with ICDS after considering guidelines issued by RBI.
- the inventory being securities other than those referred above, shall be valued at lower of actual cost or net realisable value as per ICDS; the comparison of actual cost and net realisable value of securities shall be made category-wise.

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Amendments made in Finance Act 2018 applicable from A.Y.2017-18 onwards

➤ Section 145B

- the interest received by an assessee on any compensation or on enhanced compensation, shall be deemed to be the income of the previous year in which it is received;
- any 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;
- income referred to in 2(24)(xiii) relating to 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 in any earlier previous year.

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Amendments made in Finance Act 2018 applicable from A.Y.2017-18 onwards (relating to ICDS);

- Section 36(1)(xviii) is amended to provide that marked to market loss or other expected loss as computed as per ICDS, shall be allowed as a deduction. Section 40A(13) is 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 section 36(1)(xviii)
- A **new section 43AA** is inserted to provide that any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, which shall be computed as per ICDS.

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Amendments made in Finance Act 2018 applicable from A.Y.2017-18 onwards (relating to ICDS);

- A new section 43CB is inserted to provide that profits arising from a construction contract or a contract for providing services (more than 90 days) shall be determined on the basis of percentage of completion method and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.

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Amendments made in Finance Act 2018 applicable from A.Y.2017-18 onwards

Section 115BA

Certain domestic companies engaged in manufacture or production of any article is subject to tax rate of 25 percent, on fulfillment of certain conditions.

- The above provision is subject to other provision of Chapter XII (and not only to section 111A and section 112 as provided earlier)

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Amendments made in Finance Act 2018;

Section 79

- A proviso has been inserted in section 79 which clarifies that the condition of beneficially holding 51% voting power shall not be applicable to a company, where a change in the shareholding takes place in a previous year, pursuant to approved resolution plan under the Insolvency and Bankruptcy Code, 2016.

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Amendments made in Finance Act 2018;

Section 80AC

- Earlier deduction u/s. 80IA, 80-IA , 80-IAB, 80-IB,80-IC, 80-ID, 80-IE was not allowed if the return of income is furnished after the due date specified under section 139(1)
- From A.Y.2018-19, the scope of section 80AC is extended to provide that the benefit of deduction under the entire class of deductions under the heading 'C Deductions in respect of certain incomes' (intra-alia includes 80JJA, 80JJAA,80P, 80PA, 80QQB and 80RRB) in Chapter VIA shall not be allowed unless the return of income is filed by the due date.

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Amendments made in Finance Act 2018;

Section 80IAC

- The benefit is extended to start-ups incorporated on or after 1 April 2019 and before 1 April 2021 (earlier benefit was available on or after 1 April 2016 but before 1 April 2019)
- The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

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Amendments made in Finance Act 2018;

Section 115JB

- Explanation 1 is amended so as to provide that the aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) shall be allowed to be reduced from the book profit, if a company's application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority.
- Explanation 4A* has been inserted to section 115JB which provides that the provisions of section 115JB shall not be applicable and shall be deemed never to have been applicable to a foreign company, if its total income comprises solely of profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB and such income has been offered to tax at the rates specified in the said sections.

*This amendment will take effect, retrospectively from AY 2001-02.

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Amendments made in Finance Act 2018;

Section 143(1)(a)

- Sub-clause (vi) of the section 143(1) (a) 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 (only applicable for A.Y.2017-18)
- No Adjustment under sub-clause (vi) will be made in respect of any return furnished for the A.Y.2018-19 and subsequent Assessment Years.

Section 234F – Fee for Default in Furnishing Return

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- A new fees under section 234F has been introduced in lieu of penalty u/s 271F.
- Late fee Rs. 5,000 if ITR is filed before 31 December of the Assessment Year & Rs. 10,000 in any other case
- In case total income < Rs. 5 lakhs late fee would be Rs. 1,000 in both the scenarios.
- The assessee shall now be required to pay the late filing fees along with interest u/s 234A, 234B and 234C.

Section 139(5)

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- If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time *before the end of the relevant assessment year* or before the completion of the assessment, whichever is earlier.
- Earlier an assessee could revise the return at any time before the expiry of one year from the end of the assessment year or before the completion of the assessment, whichever is earlier.

THANK YOU