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INDIA BUDGET STATEMENT 2016

The Direct Tax proposals

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This document is a result of our study of the direct tax proposals forming part of the Finance Bill and is intended to bring to you the salient proposals in a simple, condensed and comprehensible manner.

We would like to reiterate that what have been discussed in the following pages are the proposals pertaining to the direct taxes. The said proposals are open to modifications and alterations during the course of discussion in the Parliament before they eventually become law upon receiving the assent of the President of India.

Disclaimer

This document is intended for use by Firm's personnel and clients only. It summarizes the Direct tax proposals forming part of the Union Budget 2016.

While due care has been taken during the compilation of this document to ensure that the information is accurate to the best of our knowledge and belief, the content is not to be construed in any manner whatsoever as a substitute for professional advice. We do not assume any liability or responsibility for the outcome of decisions taken as a result of any reliance placed on this publication.

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Foreword

Finance Minister Arun Jaitley has presented the Finance Bill 2016 to the Parliament on February 29, 2016.

On the Direct tax front the general view in the run up to the Budget was that barring some necessary tweaks in the tax laws, on the whole the third Budget of this Government would be a rather mundane affair. If one goes by the numbers which say that all proposals on the direct taxes put together are estimated to yield almost the same amount for the Government as in the preceding year (a revenue loss of a mere Rs. 1,000 crores) that view might appear to have been vindicated. However, if one were to dwell deeper into the slew of budget proposals, one would be left with no doubt that the Budget proposals vis-à-vis direct taxes are anything but mundane.

In his budget speech the Finance Minister expounded nine pillars around which the tax proposals have been structured. They are (i) relief to small tax payers (ii) measures to boost growth and employment generation (iii) incentivizing domestic value addition to help Make in India (iv) measures for moving towards a pensioned society (v) measures for promoting affordable housing (vi) additional resource mobilization for agriculture, rural economy and clean environment (vii) reducing litigation and providing certainty in taxation (viii) simplification and rationalization of taxation (ix) use of Technology for creating accountability.

The most positive feature of the direct tax proposals is the unprecedented attention given to areas such as improving the tax administration, curtailing the discretionary powers of the tax officials and simplifying procedures, reducing litigation *per se* and shortening the time frame of litigation.

An Income Tax Disclosure Scheme has been offered to residents to declare and come clean on their unaccounted income and assets held within India by paying 45% tax including cess and penalty. The four month window for declarations opens on June 1, 2016.

The increase in tax rebate for small taxpayers, enhanced rebate for house rentals, marginal reduction in corporate tax rate for MSMEs and reduced corporate tax rate for certain new manufacturing companies are some of the proposals that have cheered the respective stakeholders but what has upset a large section of salaried taxpayers is the proposal to partially tax withdrawals from EPF and other recognized provident fund which would ultimately reduce the size of their retirement kitty. Also something that has certainly not gone down well with a relatively small constituent of taxpayers, are the two proposals to tax dividend receipts in excess of Rs. 10 lacs in the hands of shareholders and increasing the surcharge to 15% on individual and other non-corporate tax payers deriving taxable income of more than Rs. 1 crore.

On taxation of non-residents and foreign companies the proposals include a reiteration on implementation of GAAR effective financial year 2017-18, deferment of the Place of Effective Management provisions by one year, relief on mandatory furnishing of PAN, the clarity on non-applicability of MAT not having a permanent establishment in India, a new three tiered structure for transfer pricing documentation and imposition of an equalization levy at 6% for payments made by a resident to a non-resident not having a permanent establishment in India for transactions in digital space/economy.

Amongst the many, more notable proposals are the ones which propose to do away with the assessing officers power to file appeals against the directions of the Dispute Resolution Panel, extending e-assessment mechanism to seven mega-cities, rationalization of penal provisions and bringing an end to a broad discretionary range for levy of penalty, giving an option to tax payers to settle their pending tax disputes with the Commissioner (Appeals) thereby restricting the rigors of penalty and prosecution provisions. Introducing time limits for giving effect to appellate orders and also an announcement by the Finance Minister that suitable instructions shall be passed to the Assessing Officers to stay all tax demands raised by them subject to payment of 15% of such demand till the disposal of the taxpayers appeal by the Commissioner (Appeals) is a very welcome measure that would make the life of a taxpayer much easier.

All said and done, from a tax planners perspective, the most significant takeaway from the Finance Minister's three budgets is that, having steered clear of introducing any retrospective legislation, Mr. Jaitley has gone to great lengths to dispel a long standing notion that '*in India, it is not only your future that is uncertain, but even your past is equally uncertain*'

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Partner

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At a glance

Income Tax

- No Change in the tax slabs/rates for individuals, cooperative societies, firms, local authorities and companies
- Surcharge increased to 15% for individuals, HUF, AOP, BOI having incomes exceeding Rs.1 crore.
- Dividend income in excess of Rs.10 Lacs received by individuals, HUF/Firm taxable @ 10% in the hands of recipient.
- Increase in limit of deduction for rent by certain taxpayers from Rs.24,000/- per annum to Rs.60,000/- per annum.
- Ceiling limit of tax rebate for individuals having income below Rs. 5 lacs raised from Rs.2000/- to Rs.5,000/-,
- For acquiring residential house property a deduction for additional interest of Rs.50,000/- per annum on loans upto Rs. 35 lacs, where the cost of the house does not exceed Rs.50 lacs.
- Time allowed for acquisition/construction of self-occupied house property for claiming deduction of interest increased from 3 years to 5 years.
- Time period for qualifying for concessional long term capital gain tax rate for sale of shares in unlisted companies reduced from 3 years to 2 years.
- New manufacturing companies incorporated after 1.3.2006 to be given an option to be taxed @ 25% plus surcharge/cess provided they do not claim any profit/investment linked deductions/allowances and accelerated depreciation.
- Small taxpayers with turnover of less than Rs. 5 crore in the financial year 2014-15 to be taxed at 29% plus surcharge and education cess.
- Threshold monetary limit for mandatory tax audits for professionals increased from Rupees 25 lacs to Rupees 50 lacs.
- Uper limit of turnover for presumptive taxation eligibility increased to Rupees 2 crores from Rupees 1 crore.

- Presumptive taxation scheme introduced for professionals with gross receipts of upto Rs.50 lacs, where a sum equal to 50% of such receipts would be considered as profits.
- An “Equalisation Levy” is introduced wherein 6% of the consideration for specified services in digital domains received/receivable from non-resident not having any permanent establishment in India shall have to withheld at source. No such levy on small players in digital domain, if the amount of consideration does not exceed Rs. 1 Lacs.
- TCS provisions @ 1% on purchase of luxury cars exceeding Rs.10 lacs and on purchase of goods and services exceeding Rs. 2 lacs.
- Introduction of Income Declaration Scheme, 2016 wherein domestic taxpayers can declare undisclosed income by paying tax @ 30% plus surcharge @ 7.5% and penalty @ 7.5% totaling to 45% of the undisclosed income. The declarant will have immunity from prosecution.
- Increase in the threshold limit of TDS under sections 192A, 192BB, 194C, 194D, 194G, 194H & 194LA.
- Revision in rates of TDS under section 194DA, 194EE, 194D, 194G and 194H.
- Enabling of filing of form 15G/15H for rental payments under section 194-I
- Processing to income tax return is mandatory before scrutiny assessment.
- The limitation time-limit for assessment, reassessment and re-computation/revision of assessment and also assessment in search cases reduced by three months in each case.
- Direct tax Dispute Resolution Scheme, 2016 introduced wherein the assessee can end litigation and avoid penalty in cases with disputed tax is upto Rs.10 Lacs. In other cases where disputed tax exceeding Rs. 10 lacs, assessee is to be subjected to penalty @25%.
- The provision for TDS @ 20% in the event of non-furnishing of PAN relaxed in certain cases for non-residents.
- Tax Incentives to International Financial Services Centre - no dividend distribution tax, 9% concessional MAT, no securities transaction/commodities transaction/long term capital gain tax.

- 100% deduction for profits to an undertaking engaged in housing projects for flats upto 30 square metres in four metro cities and 60 square metres in other cities. The project to be approved between June 2016 to March 2019 and to be completed in three years.
- 100% deduction of profits for 3 out of 5 years for start-ups set up during April 2016 to March, 2019
- Tax Incentives liberalised for employment generation.
- Commitment to implement General Anti Avoidance Rules (GAAR) with effect from 1.4.2017.
- Phasing out of various profit linked deductions.
- Levy of tax where the charitable institutions ceases to exist or converts into a non-charitable organization.
- Interest @ 9% per annum against the normal rate of 6% per annum payable to assessee for delay in giving effect to the Appellate order beyond the ninety days.
- Monetary limit for deciding an appeal by a single member bench of ITAT enhanced from Rs. 15 lacs to Rs. 50 lacs.
- New penal provisions introduced for under-reporting and misreporting of income.
- Determination of residency of foreign company on 'Place of Effective Management' basis postponed by one year to financial year 2016-17.
- Clarification on non-applicability of MAT for non-residents/foreign company, not having a PE introduced retrospectively w.e.f 1.4. 2001.
- A three tier structure for transfer pricing documentation mandated.
- Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme.
- Rationalisation of advance tax payments schedule under section 211 and charging of interest under section 234C.

Direct Tax Proposals

This section summarizes significant proposals on direct taxes announced in Union Budget 2016. These proposals are generally effective from financial year commencing April 1, 2016 relevant to Assessment year 2017-18. However some of the proposals are effective either prospectively or retrospectively in which case the dates from which they become applicable have been mentioned against respective proposals.

Income Tax

Rates of Tax for Assessment year 2017-18.

- The **tax slabs for individual (other than senior citizens)/ HUF/ AOP/ BOI/ artificial juridical person**, shall be as under:

Income Slabs	Tax Rate (percent)
Upto Rs. 250,000	Nil
Rs. 250,000 to Rs. 500,000	10%
Rs. 500,000 to Rs. 1,000,000	20%
Above Rs. 1,000,000	30%

The above tax slabs are also applicable to all tax non-resident individuals irrespective of the fact whether they fall within the age limit for senior citizens or more senior citizens.

- The **tax slabs for senior citizens, resident in India** who are of the age of sixty years or more but less than eighty years shall be as under:

Income Slabs	Tax Rate (percent)
Upto Rs. 300,000	Nil
Rs. 300,000 to Rs. 500,000	10%
Rs. 500,000 to Rs. 1,000,000	20%
Above Rs. 1,000,000	30%

- The **tax slabs for senior citizens, being a resident in India** and who are of the age of eighty years or more, shall be as under:

Income Slabs	Tax Rate (percent)
Upto Rs. 500,000	Nil
Rs. 500,000 to Rs. 1000,000	20%
Above Rs. 1,000,000	30%

- The *tax slabs for domestic companies*, shall be as under:

Income Slabs	Tax Rate (percent)
Turnover/Gross Receipts less than Rs. 50,000,000 in the previous year 2014-15	29%
More than Rs. 50,000,000	30%

- *Surcharge on Individuals* having a total income exceeding Rs.10,000,000 increased from 12% to 15%
- *Surcharge on domestic companies* having a total income exceeding Rs. 10,000,000 but less than Rs. 100,000,000 shall continue to be levied at a rate of 7% and for total income exceeding Rs.100,000,000/- will be levied @ 12%.
- *Surcharge on foreign companies* having a total income exceeding Rs. 10,000,000 but less than Rs. 100,000,000 shall continue to be levied at a rate of 2% and for total income exceeding Rs.100,000,000/- will be levied @ 5%.
- The *Education Cess and the Secondary and Higher Education Cess* shall continue at old rates of two percent and one percent respectively.

Section 2 – Definitions

- It is proposed to exclude the deposit certificate issued under the Gold Monetization Scheme, 2015 from the definition of *capital asset* thereby making the investments exempt from capital gains tax. *To apply with retrospective effect from 01.04.2016.*
- It is proposed to amend the definition of the term '*hearing*' so as to include communication of data and documents through electronic mode. *To apply w.e.f. 01.06.2016.*
- It is proposed that any subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, shall not be included in the definition of *income* as per sub-clause (xviii) of clause (24).
- The definition of '*rate or rates in force*' or '*rates in force*' in clause (37A), is proposed to be expanded by including in its ambit the rate of deduction for tax at source on income in respect of units of investment fund at the rate of ten percent and income by way of interest from Indian company at the rate of five percent. W.e.f. 01.06.2016.

Section 6 – Residence in India

- It is proposed to postpone an earlier amendment relating to residential status of a company by one year with the effect that the Place of Effective Management Rules shall not apply with effect from financial year 2016-16. Accordingly a company shall be said to be resident in India in any previous year if, (a) it is an Indian Company, or, (b) its place of effective management, in that year, is in India.
- It is also proposed to insert an explanation so to define the term POEM.

Section 9 – Income deemed to accrue or arise in India

- It is proposed to amend the scope of the provisions relating to income deemed to accrue or arise in India to provide that in case of a foreign company engaged in mining of diamonds, no income shall be deemed to accrue or arise in India to it from certain specified activities in any special zones as are notified by the CG. *To apply with retrospective effect from 1.4.2016*

Section 9A – Certain activities not to constitute business connection in India

- The existing provisions of the section provide that in 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. Sub-section (3) specifies the meaning of an eligible investment fund and enlists certain conditions to be fulfilled so as to be categorized as an eligible investment fund.

- It is proposed to amend clause (b) of sub-section (3) so as to provide that in addition to a fund which is resident of a country with which an agreement for avoidance of double taxation has been entered into, an eligible investment fund shall also mean a fund established or incorporated or registered in a country or a specified territory notified by the CG in this behalf.
- It is further proposed to amend clause (k) of sub-section (3) so as to exclude from an eligible investment fund, a fund not carrying on or controlling and managing, directly or indirectly, any business from India.

Section 10 – Incomes not included in total income

- Presently the accumulated balance due to an employee from participating in a recognised provident fund is not includible in the total income. The proposed provision seeks to provide that accumulated balance attributable to contributions made on or after 1st day of April 2016 in excess of forty per cent of such accumulated balance, due and payable, shall be taxable.
- A proposed amendment provides that any payment to an employee, from National Pension System Trust, on closure of his account or opting out of the pension scheme, to the extent it does not exceed forty percent, shall not be included in total income.
- It is proposed to provide that any payment in commutation of an annuity purchased out of contributions made on or after 01.04.2016, in excess of forty percent of the annuity, shall be chargeable to tax. It is further proposed that any payment from an approved superannuation fund by way of transfer to the account of employee under a pension scheme as provided u/s 80CCD notified by CG, shall be exempt from tax.
- It is proposed that interest on deposit certificates issued under the Gold Monetisation Scheme notified by the CG, shall be exempt from tax. *To apply with retrospective effect from 1.4.2016.*
- It is proposed to provide that any income of a business trust by way of interest received or receivable from a SPV or dividend from companies in excess of Rs. 10 lakh which are otherwise taxable shall be exempt from tax in the hands of a business trust.
- It is proposed to provide that any distributed income from a business trust received by a unit holder shall not be taxable in the hands of the recipient.
- It is proposed to amend the provisions to provide that any dividend income received by an individual, HUF or a firm, in excess of Rs. ten lacs shall be chargeable to tax. *W*
- It is also proposed to amend the provisions so as to provide that income received by way of distributed income from a securitization trust, on which additional income-tax has been paid in accordance with section 115TA, shall not be exempt from tax. *To apply on income received on or after 01.06.2016.*

- It is proposed to insert a new clause to provide for exemption in respect of any income of a foreign company on account of storage and sale of crude oil in India provided that storage and sale is pursuant to an agreement entered into by CG. *To apply with retrospective effect from 1.4.2016*
- It is proposed to insert a new clause to provide for exemption on account of any revenues from providing specified services which are chargeable to equalization levy. The term ‘specified services’ means ‘online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.’ *To apply w.e.f 1.6.2016*

Section 10AA – Special provisions in respect of newly established units in SEZs

- It is proposed to insert a sunset clause to provide that exemption shall be allowed only to those assesseees who are engage in specified activities before 1st day of April, 2021.

Section 17 – Income from Salary

- The present provision provides that any amount in excess of Rs. One lac as contributed by the employer towards an approved superannuation fund of an employee shall be treated as a perquisite. It is proposed to increase the above limit to Rs. One lakh fifty thousand.

Section 24 – Deductions from income from house property

- It is proposed to amend the provision to provide that deduction for interest on borrowed capital to the extent of Rs. Two lacs shall be allowed if construction or acquisition of the house property is completed within five years from the end of financial year in which capital was borrowed as against the present time frame of three years.

Section 25A – Special provision for arrears of rent and unrealised rent received subsequently

- It is proposed to provide that any amount of rent in arrears or unrealised rent subsequently received shall be charged in the financial year in which such rent is received, whether or not the assessee is the owner of the property or not.
- The statutory deduction of thirty percent of such rent shall be allowed against such taxable rent in arrears.

Section 28 – Profits and gains from Business and Profession

- It is proposed to amend provisions to provide that any sum received or receivable, in cash or kind, under an agreement for not carrying out any activity in relation to any profession shall also be income chargeable to tax under Profits and gains from business and profession.

Section 32 – Depreciation

- The present provision provides for an additional depreciation of a sum equal to twenty percent of the actual cost of the new plant and machinery to be allowed to eligible assessees. It is proposed to allow the benefit of additional depreciation to assessee engaged in business of transmission of power.

Section 32AC – Investment in new plant or machinery

- The present provision provides for a deduction of a sum equal to fifteen percent of actual cost of new machinery or plant, acquired and installed by the eligible assessee, if the cost thereof exceeds Rs. Twenty five crores. The present provision also provide that the acquisition and installation should be in the same financial year.
- It is proposed to withdraw this deduction in respect of plant/machinery acquired/installed after 31st March 2017.
- It is further proposed to insert a new proviso to provide that where the installation and acquisition of the assets are in two different years, the deduction shall be allowed in the year of installation.

With retrospective effect from 01.04.2016

Section 35 – Expenditure on scientific research

- It is proposed to reduce the weighted deduction, allowed to an assessee on account of any sum paid to a scientific research association/ university/ college/ or other institution for scientific research, from the present 175% to 150% from financial year 2017-18 to 2019-20.
- It is further proposed to insert a new proviso to provide that the said weighted deduction shall be equal to the sum so paid, i.e. 100% with effect from 1st April 2021 and thereafter.
- It is also proposed to reduce the weighted deduction available on account of any sum paid to a company engaged in scientific research from one hundred twenty-five percent to one hundred percent with effect from 1st April 2018.
- It is also proposed to reduce the weighted deduction available on account of any sum paid to a research association, university, college or other institution to be used for research in social science or statistical research to one hundred percent with effect from 1st April 2018.
- It is proposed to reduce the weighted deduction, allowed to an assessee for any contributions made to a National Laboratory, or University or an Indian Institute of Technology or a specified person for the purpose of an approved scientific research program, from 200% to 150% from financial year 2017-18 to 2019-20. It is further proposed to reduce the said deduction to 100% with effect from assessment year 2021-22 and subsequent years.

- It is proposed to reduce the weighted deduction, allowed to an assessee for expenditure incurred on in-house research and development facility from 200% to 150% from financial year 2017-18 to 2019-20. It is further proposed to reduce the said deduction to 100% with effect from assessment year 2021-22 and subsequent years.

To apply prospectively w.e.f. 01.04.2018

Section 35ABA – Expenditure for obtaining right to use spectrum

- It is proposed to insert a new section to provide that any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services shall be allowed as a deduction in equal instalments over the period starting from the year in which such payment has been made and ending in the year in which the useful life of spectrum comes to an end.
- It is further proposed to amend the provision to substitute the word ‘license’ with the word ‘spectrum’.

Section 35AC – Expenditure on eligible projects or schemes

- Presently a deduction is allowed in respect of any sums paid towards certain eligible social developments projects or schemes not related to business. It is proposed that such deduction shall not be available from assessment year 2018-19 and thereafter.

Section 35AD – Deduction in respect of expenditure on specified business

- It is proposed that deduction allowed to certain specified businesses at the rate of one hundred and fifty percent of expenditure of capital nature incurred for such businesses shall be withdrawn and such specified businesses shall be eligible for deduction at the rate of one hundred percent of such expenditure.
- It is further proposed to include in the purview of specified business, the assessee engaged in developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility. *To apply prospectively w.e.f. 1.4.2018.*

Section 35CCC – Expenditure on agricultural extension project

- The existing provisions provide that a deduction of 150% shall be allowed for expenditure incurred on notified agricultural extension projects. It is proposed to limit the deduction to 100% with effect from 1st April 2018. *To apply prospectively w.e.f. 1.4.2018*

Section 35CCD – Expenditure on Skill Development Project

- The existing provisions provide that a deduction of 150% shall be allowed for expenditure incurred on notified skill development projects. It is proposed to limit the deduction to 100% with effect from 1st April 2021.

Section 36 – Other Deductions

- The existing provision provides for deduction in respect of any provision for bad and doubtful debts made by certain entities. It is proposed to extend the applicability of the provisions to non-banking financial companies and to allow a deduction of an amount not exceeding five percent of the total income as provision for bad and doubtful debts to such NBFCs.

Section 40 – Amounts not deductible

- The proposed provision provides that any expenditure paid/payable to a non-resident on which equalization levy is deductible, and where such levy has not been deducted, or after deduction has not been paid on or before filing of the tax return, such expenditure shall not be deductible in computing the profits and gains from business or profession.
- It is further proposed that where such equalization levy has been deducted/deposited in any subsequent year, the expenditure on which it is so deducted shall be allowed in the said year. *To apply w.e.f. 1.6.2016*

Section 43B – Certain deductions to be only on actual payments

- It is proposed to insert a new clause to provide that any sum payable to the Indian Railways for use of railway assets shall be allowed as a deduction only if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

Section 44AA – Maintenance of accounts by certain persons

- It is proposed to amend the provisions to provide that any person who is not eligible for computation of profits and gains of business on presumptive basis, as provided for u/s 44AD, and whose total income exceeds the maximum amount not chargeable to tax shall have to keep and maintain prescribed books of account and other documents.

Section 44AB – Audit of accounts of certain persons

- It is proposed to increase the threshold limit of gross receipts for compulsory tax audit of professionals from the present Rs. Twenty five lacs to Rs. Fifty lacs. .
- It is proposed to provide that in case an assessee, who is covered under new provisions for computation of profits and gains of profession on presumptive basis, the audit of books of account is required if he claims that his profits and gains from profession are lower than such profits computed on presumptive basis, and if his income exceeds the maximum amount not chargeable to tax.
- It is further proposed to provide that every person carrying on business, who is not eligible for computation of profits and gains of business on presumptive basis, and his income exceeds the maximum amount not chargeable to tax, shall keep and maintain such books of account and other documents for computing his total income in accordance with provisions of the Act.

Section 44AD – Special provisions for computing profits and gains of business on presumptive basis

- Presently, after the income has been computed on presumptive basis @ 8% of the total turnover/ gross receipts, a further deduction for salary and interest paid by a firm to its partners is allowed. It is now proposed to delete the proviso which allows such further deduction. Accordingly the presumptive profits @ 8% shall be the taxable income from eligible business.
- It is proposed to substitute existing provision so as to provide that where an assessee declares profit for any previous year in accordance with this section, and subsequently in any of the five assessment years he declares profits, he does not avail himself of the presumptive taxation but declared profit under normal provisions of the Act, he shall not be eligible to claim the benefit of the provisions of this section for the next five assessment years subsequent to the year in which profits have been declared under the normal provisions of the Act and not under the presumptive basis.
- It is proposed to expand the definition of eligible business by providing that a business whose total turnover does not exceed two crore rupees shall be an eligible business.

Section 44ADA – Special provision for computing profit and gains of profession on presumptive basis

- A new provision is proposed to be inserted to provide for a presumptive taxation for specified professionals. Accordingly to the proposed provision if the gross receipts of the specified professional do not exceed Rs. Fifty lacs, 50% of the gross receipts shall be deemed to be the profit/gains and all deductions shall be deemed to have been allowed. However, if the specified professional claims a higher income than 50% such higher income shall be the profit/gain.
- It is further proposed that where a person to whom these provisions apply claims profits/gains to be lower than 50% of gross receipts he shall be required to maintain books of account and get them audited.

Section 47 – Transactions not regarded as transfer

- It is proposed to provide that redemption of Sovereign Gold Bonds issued by RBI under the Sovereign Gold Bond Scheme shall not be considered as a transfer for an individual assessee and therefore such redemption shall not be subjected to capital gains tax.
- The present provision provides for conditions on fulfillment of which transfer of capital asset from a company to a limited liability partnership on its conversion into a limited liability partnership shall not be regarded as a transfer. It is proposed to provide a new condition in addition to existing conditions to provide that value of total assets in books of accounts of the company in any of the three previous years

preceding the previous year in which its conversion into limited liability partnership takes place does not exceed five crore rupees.

Section 48 – Mode of computation

- It is proposed that the Sovereign Gold Bonds issued by RBI shall be eligible for indexation benefits in respect of long term capital gains.
- It is further proposed that for the purpose of computing capital gains on redemption of rupee denominated bonds issued by an Indian company to a non-resident, the gain arising on account of appreciation of rupee against a foreign currency shall not be reduced for arriving at the full value of sale consideration.

Section 50C – Special provision for full value of consideration in certain cases

- The present provision provides that the value adopted by the stamp valuation authority is deemed to be the full value of consideration if the sale consideration in certain cases is less than the said value. It is proposed to provide that in cases where there is a difference in valuation for stamp duty purposes between the date of an agreement and the subsequent sale deed, the stamp duty value as on the date of agreement shall be deemed to be the sale consideration.
- The proposed amendment shall apply only in a case where the any part of consideration has been received through banking channels on or before the date of the agreement.

Section 54EE – Capital Gain not to be charged on investment in units of specified funds

- It is proposed to insert a new section to provide exemption from capital gains tax if the whole or part of capital gain proceeds are invested within a period of six months after date of such transfer in units of a specified fund notified by the CG and the investment in such units does not exceed Rs. Fifty lacs.

Section 54GB – Capital Gain on transfer of residential property not to be charged in certain cases

- It is proposed to provide that if capital gain arising on transfer of residential property is invested in subscription of shares of a company which qualifies to be an eligible start up, then such capital gains shall not be chargeable to tax.

Section 55 – Meaning of ‘adjusted’, ‘cost of improvement’ and ‘cost of acquisition’

- The existing provisions of section 55 provide that cost of improvement in relation to certain capital assets shall be taken to be Nil. It also provides that the cost of acquisition in respect of certain capital assets shall be taken to be Nil in any other case, not being a case of purchase of such asset.
- It is proposed to amend the provisions of section 55 so as to provide that the cost of acquisition and the cost of improvement of a right to carry on profession shall be taken to be Nil.

Section 56 – Income from other sources

- The current provision provides for chargeability of income from other sources in case any money, immovable property or other property is received by an individual or HUF whether with or without consideration.
- It is proposed to provide that shares received by an individual or HUF shall not be treated as income from other sources if they have been received by way of a transaction not regarded as transfer on account of demerger or amalgamation of a company.

Section 80 – Submission of return for losses

- It is proposed to amend the present provision so as to provide that loss in respect of specified business which has not been wholly set off, then so much of the loss which is not set off in a relevant previous year shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of return filed on or before due date. *To apply with retrospective effect from 1.4.2016.*

Section 80CCD – Deduction in respect of contribution to pension scheme of Central Government

- The existing provisions provide that whole amount standing to the credit of the assessee, including the accrual, on the amount received by the assessee or his nominee from the NPS is taxed in the year of receipt on account of the closure or opting out of the pension scheme. The proposed amendment provides that any amount received by the nominee on the death of the assessee, under the pension scheme, shall be exempt from tax.

Section 80EE – Deduction for interest on loan taken for residential house property

- The proposed amendment provides for an additional deduction of interest on loan upto Rupees Fifty thousand for individuals buying residential house property provided the value of the property does not exceed Rupees Fifty lacs and the value of the loan taken does not exceed Rupees Thirty five lacs. It is proposed that the benefit of deduction shall continue till the loan is repaid.

Section 80GG – Deduction in respect of rent paid

- The existing provisions provide a deduction on rent paid by an assessee in excess of ten percent of his total income upto a maximum of Rupees Twenty four thousand per annum or twenty five percent of his total income for the year whichever is less. The proposed amendment seeks to enhance the limit of Rs. 24,000 per annum to Rs. 60,000 per annum.

Section 80-IA – Deductions in respect of infrastructure development etc. .

- It is proposed to provide that the deduction shall not be available to enterprises which start development/ operations/ maintenance of the infrastructure facility on or after 1.4.2017.

Section 80-IAB – Deductions in respect of development of SEZs

- It is proposed that deduction in respect of development of SEZs shall not be available to a developer where the development of SEZ begins on or after 1.4.2017.

Section 80-IAC – Special provision in respect of specified business

- It is proposed to insert a new section to provide a deduction of 100% of profits and gains derived by an eligible start-up from eligible business. The benefit of said deduction shall be availed by the assessee for any period of three consecutive years out of initial five assessment years, at the option of the assessee. The deduction shall be available to those eligible start ups which are incorporated on or after 1st April 2016 but before 1st day of April 2019.

Section 80-IB - Deductions in respect of certain industrial undertakings other than infrastructure development undertakings

- It is proposed that deduction in respect of profits and gains from certain industrial undertakings carrying on eligible business, other than infrastructure development undertaking, shall not be available to an enterprise which commences the business activities after 1.4.2017.

Section 80-IBA – Deduction in respect of profits and gains from housing projects

- It is proposed to insert a new section to provide for 100% deduction to an assessee carrying on the business of developing and building certain housing projects, provided that the project is completed within a period of three years from the date of approval by competent authority.
- It is further proposed that if the project is not completed within three years, the entire deduction claimed in all the previous years, shall be deemed to be income of the previous year in which period for completion so expires.

Section 80JJAA - Deduction in respect of employment of new employees

- The existing section, applicable to business of manufacture of goods in a factory, provides for a deduction of thirty percent of additional wages paid to new regular workmen in a factory for three years.
- It now is proposed to substitute the existing provisions with new provisions which provide that the benefit of deduction under this section shall be extended to all the assessees who are required to get their accounts audited u/s 44AB.

- It is proposed that a deduction of thirty percent of additional employee cost incurred in the previous year shall be allowed for three assessment years including the year in which such employment is provided.
- It is also proposed to liberalise the eligibility conditions relating to minimum number of persons employed (subject to certain exceptions) and reduce the total number of days for which they must be employed from 300 days to 240 days.

Section 87A – Rebate of income tax in case of certain individuals

- The current provision provides that an individual resident, whose total income does not exceed five lakh rupees, is eligible for rebate in income tax equal to hundred of such income tax or two thousand rupees, whichever is less.
- It is proposed to increase the amount of rebate allowable under this section from the existing rupees two thousand to rupees five thousand rupees.

Section 92CA – Reference to Transfer Pricing Officer

- It is proposed to insert a proviso to provide that in circumstances where after exclusion of the period during which the assessment proceedings are stayed by an order of the court or; the period for exchange of information is made in accordance with double taxation avoidance agreements, if the period of limitation available to the Transfer Pricing Officer for making an order is less than sixty days, then such remaining period shall be extended to sixty days. *To apply w.e.f. 1.6.2016*

Section 92D – Maintenance and keeping of information and documents by persons entering into an international transaction or specified domestic transaction

- It is proposed to make it obligatory for constituent entity of an international group, to keep and maintain such information and document in respect of the international group as may be prescribed.
- It is further proposed to provide that the person, being the constituent entity of an international group, shall furnish the prescribed information and documents to the prescribed authority.
- In addition to the aforesaid, the Income Tax Rules, which prescribe the particulars of information/documents required to be maintained in respect of international transactions/specified domestic transactions are being amended to provide for a three tier structure for transfer pricing documentation.

Section 112 - Tax on long term capital gains

- The present provision provides that tax on long term capital gain arising from transfer of capital assets, being unlisted securities, shall be chargeable to tax @10% in the case of a non resident or a foreign company. It is now proposed that long term capital gain arising from transfer of capital asset being, shares of a company not being a

company in which the public are substantially interested, shall also be chargeable to tax @ 10%.

Section 115BA - Tax on income of certain Domestic companies

- A new section is proposed to be inserted to provide that the tax on total income of a domestic company shall, at the option of such person, be levied @ of 25%, provided the following conditions are satisfied:
 - the company has been set up or registered on or after the 1st day of March 2016.
 - the company is engaged in the business of manufacturing or production of any article or thing; and
 - the total income of the company has been computed without giving effect to the provision of section 10AA or any other investments linked deductions or the benefit of any carry forward losses attributable out of the above deductions.

The option has to be exercised by the person in the prescribed manner on or before the due date of filing of return u/s 139(1).

Section 115BBDA - Tax on certain dividends received from domestic companies

- The present provision provides that the dividend income shall be exempt if dividend distribution tax is paid on such income by the distributing company. The proposed amendment provides that the dividend shall be chargeable to tax @ 10% in the hands of the recipient if the dividend received is in excess of Rupees Ten lacs during the year. The above provisions are applicable where dividend recipient is a resident individual, HUF, or a firm.

Section 115BBE - Tax on cash credits, unexplained investments etc.

- The present provisions provides that the income relating to unexplained cash credits, investments, money or undisclosed investments, expenditure etc. are taxable @ 30% and that no deduction is allowed in respect of any expenditure or allowances in relation to the said income. The same is now proposed to be amended so as to provide that the set off of any loss shall also not be allowable against the said income.

Section 115BBF - Tax on income from patents

- The proposed new section provides that in the case of eligible assesses the income being royalty in respect of a patent developed and registered in India shall be taxable @ 10%. It is further proposed that such income shall not be eligible for any deductions in respect of any expenditure or allowance under the provision of the Act.

Section 115JB - Special provision for payment of tax by certain companies

- An amendment is proposed to provide that for the computing tax payable under MAT the book profits shall be increased/decreased by the amount of expenditure/income respectively relatable to royalty in respect of patent registered in India which is chargeable to tax at special rates.

- An explanation is proposed to be inserted to provide that the MAT shall not be applicable to a tax treaty resident foreign companies not having a permanent establishment in India or non tax treaty foreign companies which are not required to seek any registration under any law relating to companies. *To apply retrospectively w.e.f from 1.4.2001.*
- An amendment is proposed to provide that MAT shall be chargeable at a concessional rate of nine percent by a company which is a unit of International Financial Services Centre and which derives its income solely in convertible foreign exchange.

Section 115JH - Special provisions related to foreign companies

- A new chapter XII-BC has been inserted which contains special provisions related to foreign company which are said to be resident in India. The proposed provisions provide that where such foreign company has not been resident in India in any of the earlier years then the provision of the Income tax Act relating to computation of income, treatment of unabsorbed depreciation, or carry forward or set off of business losses, special provisions relating to avoidance of tax and the collection and recovery shall apply with such exceptions, modifications and adaptations on fulfilment of such conditions as may be notified by the Central Government.

Section 115O - Tax on distributed profits

- The above section has been amended to provide that dividend distribution tax shall not be chargeable in respect of any amount declared distributed or paid by the specified domestic company by way of interim or final dividend to a business trust out of the current year income.
- It is further proposed that the exemption under the proposed provision shall not be available if the dividend is declared out of the accumulated profits or current year's income arising up to the specified date.
- It is further proposed that DDT shall not be levied on dividends distributed out of the current income by a company being a unit of International Financial Service Centre, deriving income solely in convertible foreign exchange. Such dividends shall be exempt from tax in the hands of company and also the person receiving such dividend. *To apply w.e.f. 1.6.2016.*

Section 115QA - Tax on distributed income to shareholders

- This section contains special provisions relating to tax on distributed income of domestic company for buy back of shares. Now that the Companies Act, 1956 has been replaced by the new Companies Act, consequential amendment is proposed to delete reference to the Companies Act, 1956 which shall be substituted by a reference to present law relating to the Companies Act. It is also proposed to amend the definition of the term 'distributed income' which shall mean the consideration paid by the company on buy back of shares as reduced by the amount which was received by the company for the issue of such shares, determine in the prescribed manner. *To apply w.e.f 1.6.2016*

Section 115TA - Tax on distributed income by securitization trusts.

- The proposed amendment provides that this section shall not be apply to any income distributed by securitization trust to its investors on or after 1.6.2016.

Section 115TC- Securitisation trust to be assessee in default

- The definition of the term ‘investor’ is proposed to be amended so as to include within its meaning a person who has invested in the security receipt as defined under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- The definition of Securitisation Trust is proposed to be amended to include a trust set up by a securitisation company or a reconstruction company formed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or in pursuance of any guidelines and directions issued by the RBI.

Sections 115TD to 115TF – Special provisions relating to tax on accreted income of certain trusts and institutions

- The proposed amendments seek to tax accreted incomes in certain eventualities of trusts/institutions having exempt income u/s 12AA.
- Accreted income is proposed to be defined to mean amount by which the aggregate fair market value of total assets on specified date exceeds the total liability of such trust/institution computed in accordance with the prescribed methods.
- Other provisions in respect of taxation of accreted income have also been prescribed.

To apply w.e.f. 1.6.2016.

Section 115UA - Tax on income of unit holders and business trust

- An amendment is proposed to provide that that any distributed income from a business trust received by unit holder which is of the nature of dividend otherwise taxable in the hands of recipient, shall not be included in the total income of the unit holder.

Section 119 - Instructions to Subordinate Authorities

- The CBDT is proposed to be empowered to issue directions/ instructions for the purpose of proper and efficient management relating to the work of assessment and collection of revenue provided such directions are nor prejudicial to the assessee.
- Consequential amendments are proposed to empower the CBDT to issue directions/ instructions in respect of newly introduced penalty provisions under section 270A for under-reporting or misreporting of income.

Section 124- Jurisdiction of Assessing Officer

- It is proposed to amend the provisions to provide that in a case of search u/s 132 or where books of accounts or other documents are requisitioned u/s 132A, no person shall be entitled to call into question the jurisdiction of an assessing officer after expiry of one month from the date on which he has been served with the notice or after the completion of assessment whichever is earlier. *To apply w.e.f from 1.6.2016.*

Section 133C – Power to call for Information by prescribed income-tax authority

- The existing present provisions empower income tax authorities to call for information/documents for the purpose of verification of any information. The proposed amendment seeks to empower the said authorities to process and to make available the outcome of such processing to the Assessing Officer for further action. *To apply w.e.f from 1.6.2016.*

Section 139 – Return of Income

- A proposed amendment seeks to make it obligatory for a person in receipt of taxable dividend income (which exceeds Rs. 10 lacs) to file an income tax return within the prescribed time.
- It is proposed to curtail the time period for filing belated return from the existing limit of one year from the end of assessment year to a reduced period which shall be before the end of the relevant assessment year or completion of assessment whichever is earlier.
- Under the existing provisions an omission or a wrong statement in the return of income can be cured by way of filing a revised return only if such return has been filed within the prescribed time or in response to a notice, a belatedly filed return cannot be revised. It is proposed to provide that an omission or a wrong statement in a belated return filed within the new time limits (i.e. before the end of assessment year) can also be cured by filing a revised return either before the expiry of one year before the end of the relevant assessment year or before the completion of the assessment whichever is earlier.
- A proposed amendment seeks to provide that a return of income shall not be treated as defective merely because self-assessment tax and interest has not been paid before filing the said return of income.

To apply with retrospective effect from 1.4.2016.

Section 143- Assessment

- It is proposed to enlarge the scope of permissible adjustments at the time of processing of the income tax return so as to include therein adjustments for:
 - disallowance of loss claimed if the return is furnished beyond the due date as specified under section 139(1)
 - disallowance of expenditure as qualified in the audit report but not added back,
 - disallowance of various deductions, as specified under section 10AA or tax holiday deductions as specified under chapter VI.
 - addition of income as appearing in form 26AS/16/16A.
- It is further proposed that an opportunity shall be provided to the assessee before making the aforesaid adjustments.
- It is further proposed that the processing of the return under section 143(1) shall be mandatory before making an assessment under section 143(3).

Section 147- Income escaping assessments

- It is proposed to amend the provision which prescribe certain cases where income shall be deemed to have escaped assessment and a re-assessment is therefore made. The proposed provision seeks to include within the deeming provisions cases where on the basis of the information/document received by the Assessing officer from a prescribed income tax authority if it is found that the income has been understated etc. such cases shall also be deemed to be a case of income escaping assessment. *To apply w.e.f from 1.6.2016*

Section 153 - Time limit for completion of assessment and re-assessment

- The proposed amendments seek to curtail the limitations relating to time limit for completion of assessment from the existing limit of two years to twenty one months from the end of the assessment year.
- It is also proposed to curtail the limitations relating to time limit for completion of re-assessment under section 147 from the existing limit of one year to nine months from the end of the assessment year in which notice was served.
- It is also proposed to curtail the limitations relating to time limit for completion of fresh assessment pursuant to order u/s 254/263/264 from the existing limit of one year to nine months from the end of the assessment year in such order was passed by the Commissioner.
- It is further proposed to introduce limitation for passing the consequential order to give effect to the appellate/revisory orders passed by the Tribunal/ Commissioner(Appeals) or Commissioner respectively or to give effect to the order of the Settlement Commission. The proposed provision prescribe a time limit of three months from the end of the month in which the such order is received by the Chief Commissioner/ Commissioner. It is also proposed that the time limit of 3 months will be extended to 6 months if sufficient reasons beyond the control of the assessing

officer are explained for failure to pass consequential order within the three month time frame.

- Also, a proposed amendment seeks to curtail the limitations relating to time limit for completion of assessment in search cases from two years to twenty one months from the end of the financial year in which the last authorization etc. was executed.

To apply w.e.f from 1.6.2016.

Section 192A- Payment of accumulated balance to an employee

- It is proposed to enhance the threshold limit for non deduction of TDS on taxable portion of the accumulated balance payable to an employee by the trustees of a recognized provide fund from existing Rs 30,000 to proposed Rs 50,000. *To apply w.e.f from 1.6.2016.*

Section 194BB- Winning from Horse Race

- It is proposed to enhance the threshold limit for non deduction of TDS on sums payable for winning from horse races etc. from existing Rs. 5,000 to Rs. 10,000. *To apply w.e.f from 1.6.2016.*

Section 194C- Payment to Contractors

- It is proposed to enhance the threshold limit for non-deduction of tax on payments to contractors from existing Rs 75,000 to Rs 100,000. *To apply w.e.f from 1.6.2016.*

Section 194D- Insurance commission

- It is proposed to reduce the threshold limit for non-deduction of tax at source on payments of insurance commission during a financial year from existing Rs.25,000 to Rs. 15,000. *To apply w.e.f from 1.6.2016.*

Section 194DA- Payment in respect of life insurance policy

- It is proposed to reduce the rate of TDS on taxable maturities of life insurance policies tax from existing 2% to 1% for any aggregate amount of such payments exceeding Rs.100,000 during the financial year. *To apply w.e.f from 1.6.2016.*

Section 194EE - Payment in respect of deposit under national saving scheme, etc

- It is proposed to reduce the rate of TDS on withdrawals from NSS in excess of Rs. 2,500 from existing 20% to 10%, in case any payment in respect of deposits under national saving schemes etc. exceeds Rs.2500. *To apply w.e.f from 1.6.2016.*

Section 194G- Commission, etc., on sale of lottery tickets

- It is proposed to enhance the threshold limit for non deduction of tax on payments of commission on sale of lottery tickets in one financial year from existing Rs.1,000 to Rs.1,500 for non deduction of tax at source during the financial year. It is also proposed to reduce the rate of TDS from existing 10% to 5%. *To apply w.e.f from 1.6.2016.*

Section 194H- Commission or Brokerage

- It is proposed to enhance the threshold limit from Rs.5000 to Rs.15000 for non deduction of tax at source during the financial year. The rate of deduction of tax is also proposed to be reduced from 10% to 5%. *To apply w.e.f from 1.6.2016.*

Sections 194K and 194L - Income in respect of units and payment of compensation for compulsory acquisition of capital assets

- It is proposed to delete the sections prescribing TDS on payment of income in respect of units and payment of compensation for compulsory acquisition of assets. *To apply w.e.f from 1.6.2016.*

Section 194LA- Payment of compensation on acquisition of certain immovable property

- It is proposed to enhance the threshold limit for deduction of tax on payments for compensation for acquisition of immovable properties in a financial year from the existing Rs.200,000 to Rs.250,000. *To apply w.e.f from 1.6.2016.*

Section 194LBB- Income in respect of units of investment fund

- It is proposed to revise the provisions relating to TDS on payment of income in respect of units of investment funds to provide that tax shall be deducted at following rates:

- For payment to resident payee @10%
- For payment to non resident or foreign company payees at the rate in force.

To apply w.e.f from 1.6.2016.

Section 194LBC- Income in respect of investment in Securitization Trust

- It is proposed to insert a new section to provide that in respect of income payable to a resident investor on investment by a Securitisation Trust, TDS shall be made @ 25% if the payee is an individual or Hindu undivided family and 30% if payee is any other person. It is also proposed that the payee is a non-resident TDS shall be made at the rates in force. *To apply w.e.f 1.6.2016.*

Section 197- Certificate for deduction at lower rate

- An amendment is proposed to provide that where the TDS is to be made on payments for compensation of acquisition of immovable property or in respect of units of investment fund, the recipient may apply to the assessing officer for a certificate of lower deduction or non-deduction in appropriate cases. *To apply w.e.f 1.6.2016.*

Section 197A- No deduction to be made in certain cases

- An amendment is proposed to provide that the recipient of rent may in appropriate cases issue prescribed declaration for non-deduction of TDS and in such cases the rent may be paid without TDS. *To apply w.e.f from 1.6.2016*

Section 206AA- Requirement to furnish Permanent Account Number

- This section provides for deduction of TDS at maximum rate of twenty percent in cases where any person fails to furnish Permanent Account Number wherever he is required to so furnish the same. Sub-section 7 provides specific cases wherein the provisions of this section do not apply. The same is proposed to be amended to enlarge the scope of the exclusionary provision to such other payments and subject to such conditions as may be prescribed. *To apply w.e.f 1.6.2016.*

Section 206C-Collection of tax at source

- It is proposed to expand the scope of provisions relating to collection of tax at source by the seller to provide the tax at the rate of one percent shall be collected by a seller of motor vehicle of the value exceeding Rupees Ten lacs. It is further proposed to include transactions for sale of any other goods (other than bullion and jewellery) or for providing any services of value exceeding Rupees Two lacs to be subject to provisions of collection of tax at source. It is further provided that the provisions of this section shall not apply where the payer has deducted tax at source on such transactions. Further exemptions for certain class of buyers from the applicability of the aforesaid provisions are proposed to be prescribed. *To apply w.e.f 1.6.2016.*

Section 211- Installments of Advance tax and due dates

- It is proposed that the advance tax payable by assessee's other than companies shall also be paid in four installments in each year instead of three presently in the following manner:

Due date of installment	Amount payable
On or before the 15 th June	Not less than 15% of such advance tax.
On or before the 15 th September	Not less than 45% of such advance tax, as reduced by the sums paid in earlier installment.
On or before the 15 th December	Not less than 75% of such advance tax, as reduced by the sums paid in earlier installments.
On or before the 15 th March	The whole amount of such advance tax as reduced by the sums paid in earlier installments.

- It is proposed that the above installments for payment of advance tax shall not apply to assesses who opt for presumptive basis of taxation u/s 44AD and such assesses can pay advance tax in one installment by 15th March of the financial year. *To apply w.e.f 1.6.2016.*

Section 220- Collection and recovery – interest chargeable

- An interest at the rate of one percent per month is payable for delay in payment of tax demand. Sub-section 2A empowers the Chief Commissioner/ Commissioner to reduce or waive the amount of interest. It is proposed to introduce a limitation of 12 months for passing of such orders for reduction/ waiver of interest from the end of the month in which an application is made. It is also proposed that pending applications for reduction shall be disposed off by 31st May 2017. *To apply w.e.f 1.6.2016.*

Section 234C-Interest for deferment of advance tax

- Interest at the rate of 1% per month is payable for deferment/shortfall of intallments of advance tax. Consequential amendments are proposed in the provisions relating to deferment of advance tax in light of amendment which propose payment of advance tax in four installments as against three at present. *To apply w.e.f 1.6.2016.*

Section 234C-Interest on refunds

- The assessee is entitled to interest on refund of excess tax from April 1 of the assessment year till the date of issue of refund. It is proposed to amend this section to provide that where the return is filed after the due date i.e. filed belatedly, the period for grant of interest on refund shall begin from the date of filing of return. It is further proposed that interest on refund of self assessment tax shall be payable from the period starting from the date of payment of such tax or filing of return whichever is later. *To apply w.e.f 1.6.2016.*

Section 249- Limitation for filing an appeal before the Commissioner

- The present limitation for filing an appeal before the Commissioner of Income Tax, Appeals is thirty days from the date of receipt of a notice of demand. It is proposed that where an application seeking immunity from penalty and prosecution under the newly introduced provisions is made, the limitation of thirty days for the purpose of filing an appeal against rejection of the application, shall be extended by the period beginning from the date of making such application to the date on which such application is rejected.

Section 253- Appeals to the Appellate Tribunal

- A consequential amendment is proposed to provide that an order for levy of penalty for under-reporting and misreporting of income passed by the Commissioner or Commissioner (Appeals) under the newly introduced provisions shall be appealable before the Income Tax Appellate Tribunal.
- It is proposed to once again make the directions of the Dispute Resolution Panel binding on the income tax department by withdrawing the assessing officer's power to file appeal with the Appellate Tribunal against such directions.
- It is further proposed to provide that the Appellate Tribunal may rectify a mistake apparent from record in its order at any time within six months from the passing of such order as against four years available presently. *To apply w.e.f 1.6.2016.*

Section 270A – Penalty and Prosecutions

- New provisions relating to penalty for under-reporting and misreporting of income are proposed to be introduced in place of existing provisions for penalty relating to concealment of income and furnishing inaccurate particulars of income. The gist of new provisions is as under:
- The power to levy penalty for under-reported or misreported income shall vest with the Assessing officer, Commissioner (Appeals), or the Principal Commissioner/Commissioner.

- The provisions in respect of under-reported income are-
 - The proposed term “under-reported” income has been defined to include a very wide range of cases including increase in tax payable under MAT and AMT.
 - The method for computing the amount of under-reporting income has also been prescribed in the proposed provisions.
 - Cases which shall not be regarded as under reported income for levy of penalty have been prescribed and include (a) explanations found satisfactory by the Assessing Officer etc., (b) under reported income determined on the basis of certain estimates, (c) enhancement of assessee’s own estimate of addition or disallowance on the same issue, (d) under reported incomes determined in accordance with the order of the Transfer Pricing Officer where the assessee had maintained the prescribed information and documents and disclosed all material facts, and (e) under reported incomes found during the course of a search for which separate provisions exist.
 - The penalty for under reported income is proposed to be at the rate of fifty percent of the amount of tax payable on under reported income.

- The provisions in respect of Misreported incomes are
 - The following cases are proposed to be regarded as misreporting of income:
 - (a) Misrepresentation or suppression of facts,
 - (b) Failure to record investments in the books of account,
 - (c) Claim of expenditure not substantiated by any evidence,
 - (d) Recording of any false entry in the books of account,
 - (e) Failure to record any receipt in books of account having a bearing on total income, and
 - (f) Failure to report any international transaction/ any transaction deemed to be an international transaction/ any specified domestic transactions.
 - In cases falling under the category of misreporting of income, it is proposed, that the penalty shall be two hundred percent of the tax of the tax payable.

- Further, the proposed section prescribes the mode of computation of tax payable for the purpose of calculating the penalty amounts.

Section 270AA – Immunity from levy of penalty

- New provisions are proposed to provide that an assessee may make an application for grant of immunity from levy of penalty and prosecution for under reported incomes provided he pays the tax and interest payable as per the notice of demand within the specified period and does not appeal against such assessment order. The assessee can make such applications for immunity within one month from the date of receipt of order.
- It is further proposed that the Assessing Officer shall grant immunity from levy of penalty and initiation of prosecution if the cases do not fall within the category of misreporting.

- It is further proposed that the Assessing Officer shall pass an order accepting or rejecting the plea for immunity within one month from the end of the month in which such application is received. However, an order rejecting the application shall be passed only after providing the assessee an opportunity of hearing.

Section 271 – Penalty for failure to furnish returns, comply with notices, concealment of income etc.

- It is proposed to delete this section, the same having been substituted by new section 271A.

Section 271A – Penalty for failure to keep, maintain or retain books of account, document etc.

- Consequential amendment to this section is proposed to provide that penalty for failure to keep, maintain and retain books of accounts shall be levied without prejudice to the new section 270A for under-reporting or misreporting income.

Section 271AA – Penalty for failure to keep and maintain information and documents in respect of international transactions

- Consequential amendment to this section is proposed to provide that penalty for failure to keep and maintain information and documents in respect of international transactions shall be levied without prejudice to the new section 270A for under-reporting or misreporting income.
- It is also proposed to insert to amend this section to provide that if a constituent entity of an international group referred to in new section 286 fails to furnish prescribed information and documents then it may be liable to pay penalty of Rupees Five Lacs.

Section 271AAB – Penalty in search cases

- The existing provisions provides for a levy of penalty in cases of search at rates between thirty and ninety percent of the undisclosed income. It is now proposed to amend the said provisions to provide for levy of penalty at a flat rate of sixty percent.
- It is further proposed that in cases of search where penalty is levied under these provisions the newly introduced provisions for levy of penalty for under-reporting or misreporting of income shall not apply.

Section 271GB – Penalty for failure to furnish report relating to international group

- A new section is proposed to be introduced to provide for levy of penalty for failure to furnish report or for furnishing inaccurate report in respect of the international group where the parent entity of the group is resident in India or by a constituent entity in India of an international group.

Section 273A – Power to reduce or waive penalty

- Consequential amendments are proposed to the provisions conferring power to the Commissioner of Income Tax for reducing or waiver of penalty so as to extend the applicability of the provisions to newly introduced penalty provisions under section 270A.
- Provisions for time bound disposal of the application within twelve months, for reducing or waiver of penalty are proposed to be introduced.
- A new section is proposed to be introduced to provide for levy of penalty for failure to furnish report or for furnishing inaccurate report in respect of the international group where the parent entity of the group is resident in India or by a constituent entity in India of an international group.

Section 281B – Provisional attachment

- The existing provision empowers the Assessing Officer to provisionally attach any property of the assessee if he is of the opinion that it is necessary to do so for protecting the interest of the revenue. The proposed provisions seek to provide that the assessing officer shall revoke the attachment of property where the assessee furnishes a bank guarantee from a scheduled bank to protect the interest of the revenue.

Section 282A – Authentication of notices etc.

- The proposed amendment to this section provides that a notice or other document may be issued in either paper form or electronic form in accordance with the prescribed procedure.

Section 286 - Furnishing of report in respect of international group

- A new section is proposed to be introduced to provide for furnishing of a report in respect of an international group, if the parent entity of the group is resident in India.
- The proposed provision also provides that a constituent entity in India of an international group which does not have a parent entity resident in India shall notify the prescribed authority regarding the parent entity of the group to which it belongs or the alternate reporting entity which shall furnish the report on behalf of the group.
- The proposed provision also provides that the parent entity of the international group, which is resident in India, shall furnish a report in respect of the international group within the prescribed time.
- The proposed provision also provide for the details required to be furnished in the report which shall contain aggregate information in respect of the amount of revenues, profit and loss, taxes accrued and paid, number of employees, details of constituent entities and the country or territory in which such entities are resident or located.

- The proposed provision further provide for furnishing report by entities resident in India and belonging to an international group not headed by Indian resident entity.
- The proposed provisions also provide for circumstances and threshold limit under which the constituent entities shall not be required to furnish the report.
- It is also proposed that the prescribed authority may call for information and documents for the purpose for verifying the accuracy of the report.

Part A of Fourth Schedule – Recognised provident fund

- Under the existing provisions the employers contribution to a recognized provident fund to the credit of an employee, which are in excess of twelve percent of the employees' salary are liable to be taxed in the hands of the employee. It is proposed to amend the said rule so as to provide an upper limit of Rupees One Lac fifty thousand to such contribution to the employer.

Glossary

Act	The Income Tax Act, 1961 (except as otherwise stated)
AO	Assessing Officer
ALP	Arms Length Price
AMT	Alternate Minimum Tax
AOP	Association Of Persons
APA	Advance Pricing Agreement
AY	Assessment Year
BOI	Body Of Individuals
CBDT	Central Board Of Direct Taxes
DDT	Dividend Distribution Tax
DRP	Dispute Resolution Panel
DTAA	Double Tax Avoidance Agreement
DTC	Direct Tax Code
EPFO	Employee Provident Fund Organization
EPF & MP Act	Employee Provident Funds & Miscellaneous Provision Act, 1952
GAAR	General Anti Avoidance Rules
GDP	Gross Domestic Output
HUF	Hindu Undivided Family
IPR	Intellectual Property Rights
LLP	Limited Liability Partnership
MAT	Minimum Alternate Tax
NELP	New Exploration Licensing Policy
PE	Permanent Establishment
POEM	Place of Effective Management
RBI	Reserve Bank of India

SEBI	Securities and Exchange Board Of India
SEZ	Special Economic Zone
SME	Small & Medium Enterprises
SPV	Special Purpose Vehicle
TCS	Tax Collected At Source
TDS	Tax Deducted At Source
TPO	Transfer Pricing Officer
TRC	Tax Residence Certificate
VCC	Venture Capital Company
VCF	Venture Capital Funds
VCU	Venture Capital Undertaking

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