BHUTA
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CHARTERED
ACCOUNTANTS

UNION BUDGET 2018

An Overview

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चतुर्थमाददानो ' पि क्षत्रियो भागमापदि।
प्रजा रक्षन् परं शक्त्या किल्बिषात् प्रामुच्यते।।

The ruler, during an emergency, may take even one fourth (of their income as tax) and protect his subjects with all his might. Doing so, he is freed from sin. (Manu Smriti - 118)

धर्म्यमाहारयेद् बलिम् ।

The ruler must take tax that is within dharma (Justice or fairness) (Manu Smriti 119)

सांवत्सरिकमाप्तैश्च राष्ट्राद् आहारयेद् बलिम्।
स्याच्चाम्नायपरो लोके वर्तेत पितृवन् नृषु।।

The king should get the annual revenue collected by trustworthy officials and in matters of taxation, he should obey the sacred laws. He should behave like a father to his sujects. (Manu Smriti 80)

मधुदोहं दुहेद् राष्ट्रम् भ्रमरान् न विपातयेत्।
वत्सापेक्षी दुहेच्चैव स्तनांश्च न विकुट्टयेत्।।

A king should collect taxes without hurting the subjects. It is like collecting honey without destroying bees, or like, as a calf does, drawing milk from a cow without hurting her udder. (Mahabharata - Shanti Parva 12.89.4)

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FOREWORD

The 2018 Budget reflects the Government's firm commitment to substantially boost investment in Agriculture, Social Sector, Healthcare, Digital Payments, Infrastructure and Employment Generation on one hand and simultaneously stick to the path of fiscal rectitude by aiming for a reduction of the fiscal deficit by 0.2% to at 3.3% of GDP in 2018-19. The Finance Minister remarked on the government's focus moving from the 'ease of doing business' to the 'ease of living' while aiming for a robust economic growth of 7.5% in the forthcoming year.

The highlight of the budget is the announcement of the world's largest government funded health care program - National Health Protection Scheme (dubbed by the media as 'Modicare') which plans to cover over 50 crore poor and vulnerable beneficiaries providing hospitalization coverage upto INR 5 lakh per family per year. This program is path breaking considering its sheer size and coverage. It moves India firmly into the next generation of social security.

The Budget recognized the role of "Infrastructure sector" as a growth driver of the economy with an estimated investment requirement of a massive INR 50 lakh crore in the coming years with an all-time high allocation has been made to rail and road sector.

Several measures were announced to boost the agriculture sector such as assuring revenue of 1.5 times the cost of their produce, access to agricultural markets, extending the Kisan Credit Card and creating a INR 10,000 crore fund for animal husbandry and fisheries. These measures will be instrumental in maximizing farmers' incomes while reducing waste and inefficiencies that contribute to inflation.

On the direct tax side, the Budget introduced a 10% long-term capital gains tax on sale of listed equity shares and equity oriented mutual funds. Although this will be considered as a sentimental negative in the short term, it was an expected move considering that globally, most countries tax LTCG. Equity investments would still remain the lowest taxed investment vehicle and this tax would ensure surplus funds are available to invest in tangible businesses and not only in financial assets.

The Budget has provided marginal tax relief to salaried individuals while senior citizens have been given several tax breaks on medical treatments, health insurance premiums, and interest income from bank deposits. Despite limited available room with the Finance Minister, the budget has slashed the corporate tax rate to 25% from the earlier rate of 30% for all companies with a turnover upto INR 250 Crores in FY2016-17. This would positively affect 99% of all the companies filing their tax returns.

On the indirect tax side, the Budget focused on the Customs legislation since GST proposals are now in the purview of the GST Council. The Customs rate related proposals saw significant hikes in duty of majority of products of 1.5x to 2x.

Overall, the Budget promises to stimulate long term growth with a tilt towards rural growth and social sector development.

Shailesh Bhuta
Managing Partner
Bhuta Shah & Co LLP
Mumbai, 2nd February 2018

BUDGET AT A GLANCE

2.1. Income Tax:

- No change in Tax Rates for Individual, HUF and Firm.
- Cess has been increased from 3% to 4% - to be called as health and education cess.
- Long-term capital gain from the transfer of equity shares or equity oriented fund on which Securities Transaction Tax (STT) is paid will be taxable at 10% if the gain exceeds INR 100,000.
- Reduction in corporate tax rate from 30% to 25% for domestic companies having turnover of INR 250 Crores or less in F.Y 2015-16. Cess has been increased from 3% to 4%.
- Standard Deduction of INR 40,000 is allowed for salaried employees subsuming the existing transport allowance and reimbursement of medical expenditure.
- No adjustments can be made in cases where the variation between stamp duty value and the sale consideration is not more than 5% of the sale consideration.
- Exemption of investment in 54EC bonds can be availed only on LTCG on transfer of land or building or both. Lock in period of bond has been increased from 3 years to 5 years.
- Start-up companies incorporated before 01.04.2021 eligible to claim tax benefits. Definition of start-up company has been expanded.
- Return of income to be filed in time in order to claim profit linked deduction.
- Senior citizens now allowed deduction upto INR 50,000 in respect of interest income from bank and postal deposits, in lieu of earlier deduction of INR 10,000/- on saving bank interest.
- Enhancement of deduction under section 80D for senior citizens on health insurance premium/ mediclaim treatment from INR 30,000 to INR 50,000.
- Trust and institutions - Payments in cash above INR 10,000 and expenditure incurred without TDS to be excluded while computing application of income
- 100% deduction in respect of income of farm producer companies.
- Provisions notified in line with notified Income and Computation Disclosure Standards (ICDS). These are retrospectively applicable from 1st April, 2017.
- Relaxation from provisions of carry forward / set off of losses and MAT/ AMT provision for companies under insolvency procedure subject to certain conditions.

- Companies with tax liability of less than INR 3,000 will also be liable to prosecution on account of non-filing of return of income retrospectively from 01.04.1975.
- Scope of "Business Connection" with has been aligned with modified PE rule as per the BEPS / Multi-lateral Instrument provisions.
- "Business connection" scope expanded to include "significant economic presence" in order to align with BEPS Action Plan 1 .
- Due date for CbCR reporting has been extended to 31st March.
- In order to reduce person to person interface and as a part of 'Digital India' initiative, scheme of e-assessment is proposed to be launched.
- Mandatory PAN for entities entering into financial transactions aggregating to INR 2,50,000/- or more in a F.Y.
- Scope of Accumulated profits widened for the purposed of deemed dividend - shall include accumulated profits of the amalgamating company, on the date of amalgamation.
- Proposed to levy DDT at 30% on deemed dividends in the hands of the distributing company.
- Additional tax at 10% for equity oriented fund distributing income.

2.2. <u>Customs:</u>

- The Customs Act, 1962 will now also apply to any offence or contravention committed outside India by any person unless specified otherwise.
- Extension of limit for Indian Customs Water from existing 'Contiguous Zone of India' to 'Exclusive Economic Zone' (200 nautical miles).
- A new levy 'Social welfare surcharge' at the standard rate of 10% on aggregate of customs duties (except on IGST and compensation cess) has been introduced effective immediately.
- Introduction of Road Infrastructure Cess on imported motor spirit. The said Cess to be computed at INR 8 per litter
- Facility of electronic cash ledger has been introduced and the payment of duty, interest and penalty can be made through cash ledger.
- Education cess and secondary and higher education cess abolished.
- Key changes in basic custom duty for certain products

Commodity	**Existing rate**	**Revised Rate**
Cellular mobile phones	15%	20%
Specified parts and accessories of cellular mobile phone	7.5% / 10%	15%
LCD / LED / OLED panels and parts	7.5% / 10%	15%

Specified parts/accessories of motor vehicles, motor cars, motor cycles	7.5% / 10%	15%

2.3. Excise:

- Changes in Basic Excise Duty on motor spirit (petrol) and high speed diesel oil (effective from February 2, 2018)

Commodity	Existing rate (per litre)	Revised Rate (per litre)
Unbranded Petrol	6.48	4.48
Branded Petrol	7.66	5.66
Unbranded Diesel	8.33	6.33
Branded Diesel	10.69	8.69

2.4. Service Tax:

Retrospective exemptions granted w.r.t Life Insurance Services provided to Coastal guard personnel; Services provided by GSTN to CG, SG and UT; and Government's share of profit petroleum.

2.5. Goods and Service Tax:

No announcements with respect to Goods and Services Tax ('GST') were made in the Union Budget, 2018.

DIRECT TAX RATES

3.1. Income Tax Rates

3.1.1. Individuals (less than 60 years), HUFs, AOPs, BOIs:

The Bill proposes no change in the tax rates for Individuals (less than 60 years), HUFs, AOPs and BOIs for the FY 2018-19.

The tax rates are as follows:

Income Slabs	FY 2018-19
0 – 2,50,000	Nil
2,50,001 – 5,00,000	5%
5,00,001 - 10,00,000	20%
10,00,001 and above [2]	30%

3.1.2. Individuals (60 years or more, but less than 80 years):

The Bill proposes no change in the tax rates for Senior Citizens for the FY 2018-19.

The tax rates for Senior Citizens are as follows:

Income Slabs	FY 2018-19
0 – 3,00,000	Nil
3,00,001 – 5,00,000	5%
5,00,001 - 10,00,000	20%
10,00,001 and above[2]	30%

3.1.3. Individuals (80 years or more):

The Bill proposes no change in the tax rates for Very Senior Citizens for the FY 2018-19.

The tax rates for very Senior Citizens are as follows:

Income Slabs	FY 2018-19
0 – 5,00,000	Nil
5,00,001 - 10,00,000	20%
10,00,001 and above [2]	30%

1 *The above tax rates are further to be increased by health and education cess at 4% on tax (including surcharge, if any), which has been introduced in FY 2018-19. This cess has substituted the erstwhile secondary and higher education cess of 3%.*

2 *The amount of income-tax computed, shall in the case of every individual or Hindu undivided family or association of persons or body of individuals, having a total income exceeding INR 50,00,000 but not exceeding INR 1*

crore, be increased by a surcharge calculated at the rate of 10% and 15% respectively of such income-tax. 1surcharge calculated at the rate of 10% and 15% respectively of such income-tax.

3.1.4. Co-operative Societies:

The Bill proposes no change in the tax rates for co-operative societies or local authorities for the FY 2018-19.

The tax rates for Co-operative societies are as follows:

Income Slabs	FY 2018-19
Up to 10,000	10%
10,001 - 20,000	20%
20,001 and above[3]	30%

3 The amount of income-tax computed, shall in the case of Co-operative society, having a total income exceeding INR 1,00,00,000, be increased by a surcharge calculated at the rate of 12% of such income-tax. The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any)

3.1.5. Partnership Firms:

The Bill proposes no change in the existing tax rate of 30% for partnership firms. There is no change in the surcharge at the rate of 12% of such income-tax in case of a firm having a total income exceeding INR 1,00,00,000. The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any).

3.1.6. Companies:

- **Domestic companies:**

  In case of domestic company, the rate of income-tax shall be **25%** of the total income if the total turnover or gross receipts of the previous FY 2016-17 does not exceed **INR 250 crores** and in all other cases the rate of income-tax shall be **30%** of the total income.

As such, the effective normal tax rates and MAT rates for domestic companies for FY 2018-19 are as follows:

Income Slabs (INR)	FY 2018–19			
	Turnover or Gross Receipts >INR 250 crore		Turnover or Gross Receipts<INR 250 crore	
	Effective Normal Tax[4]	Effective MAT	Effective Normal Tax[4]	Effective MAT[4]
0 - 1,00,00,000	31.20%	19.24%	26.00%	19.24%
1,00,00,001 – 10,00,00,000 [5]	33.384%	20.587%	27.82%	20.587%
10,00,00,001 and above [5]	34.944%	21.549%	29.12%	21.549%

4 *The above rates are inclusive of health and education cess at the rate of 4%. Surcharge at the rate of 7% shall continue to be levied in case of a domestic company if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of 12% shall continue to be levied if the total income of the domestic company exceeds ten crore rupees.*

5 *Subject to Marginal Relief.*

Note: No marginal relief will be available on Health and Education cess.

- **Foreign Companies:**

The Bill proposes no change in the existing tax rates of foreign companies for the FY 2018-19.

As such, the effective normal tax rates and MAT rates for foreign companies for FY 2018-19 are as follows:

Income Slabs (INR)	FY 2018–19	
	Effective Normal Tax[6]	Effective MAT[6]
0 - 1,00,00,000	41.60%	19.24 %
1,00,00,001 – 10,00,00,000 [7]	42.432%	19.625%
10,00,00,001 and above [7]	43.68%	20.202%

6. *The above rates are inclusive of health and education cess at the rate of 4%. Surcharge at the rate of 2% shall continue to be levied in case of a foreign company if the total income of the foreign company exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of 5% shall continue to be levied if the total income of the foreign company exceeds ten crore rupees*

7. *Subject to Marginal Relief.*
   Note: The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any).

3.2. TDS Rates:

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
1.	Salary	192	As per slab rates prescribed for individuals and senior citizens (includes very senior citizens w.e.f. 1 April 2011)	
2.	Payment of accumulated balance due to an employee	192 A	Payment in excess of INR 50,000 p.a.	10%
3.	Interest on 7.75% GOI Savings Bonds, 2018.	193	Payment in excess of INR 10,000 p.a.	10%
4.	Interest other than interest on securities *[Notes 8 and 9]*	194 A	Payment in excess of INR 5,000/10,000 p.a.	10%
5.	Winnings from lottery or crossword puzzle or card game or other game	194 B	Payment in excess of INR 10,000	30%
6.	Winnings from horse race	194 BB	Payment in excess of INR 10,000	30%
7.	Payments to contractors [Note 9]	194 C	Payment in excess of INR 30,000 per contract or INR 1,00,000 p.a. in aggregate	2% (1% for individual and HUFs)
8.	Insurance commission	194 D	Payment in excess of INR 15,000	5%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
9.	Non Exempt payment under L.I.C.	194 DA	Payment in excess of INR 1,00,000	1%
10.	Payment in respect of NSS Deposits	194 EE	Payment in excess of INR 2,500	10%
11.	Commission on Sale of Lottery tickets	194 G	Payment in excess of INR 15,000	5%
12.	Commission or brokerage [Note 9]	194 H	Payment in excess of INR 15,000 p.a.	5%
13.	Rent of Land / Building / Furniture [Note 9]	194 I	Payment in excess of INR 1,80,000 p.a.	10%
13a.	Rent of Plant, Machinery or Equipment [Note 9]	194 I	Payment in excess of INR 1,80,000 p.a.	2%
14.	Consideration for transfer of immovable property (other than agricultural land)	194 IA	Payment in excess of INR 50,00,000	1%
15.	Individuals or HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent.	194 IB	Payment in excess of INR 50,000 per month or part of month	5%
16.	Any monetary consideration is payable under the specified agreement under section 45(5A)	194 IC		10%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
17.	Professional and technical services / royalty [Notes 9,11,14]	194 J	Payment in excess of INR 30,000 p.a.	10% (2% for call centre business)[15]
18.	Payment of Compensation on acquisition of certain Immovable Property other than under section 96 of RFCTLARR Act, 2013	194 LA	Payment in excess of INR 2,50,000	10%
19.	Income by way of interest from infrastructure debt fund payable to a non-resident, not being a company, or to a foreign company	194LB		5%
20.	Certain income from units of a specified business trust	194LBA		Resident - 10% Non Resident – 5% or the rates in force as the case may be
21.	Income in respect of specified units of investment fund	194LBB		10%
22.	Income payable to an investor, in respect of an investment in a specified securitisation trust.	194LBC		i. For Resident, 25%(Individual and HUF) 30% (For other) ii. For non-resident – rates in force

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
22.	Income by way of interest from Indian Company payable to non-resident, not being a company or to a foreign company by a specified company i. in respect of monies borrowed by it in foreign currency from a source outside India subject to certain conditions ii. to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government	194LC		5%
23.	Income by way of interest(as specified) on certain bonds and government securities for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor	194LD		5%

Notes:

1. *Time of deduction of tax:*
   Except in case of salary (wherein tax is to be deducted at the time of payment), tax is to be deducted at the time of payment or credit, whichever is earlier.
2. *Time of deposit of tax:*
   All sums deducted shall be deposited with the government within 7 days from the end of the month in which the deduction is made. However, where the amount is credited or paid to the account of the payee in the month of March, the tax is required to be deposited with the government on or before 30 April.
3. *Mode of making payment of tax:*
   For payment of tax, challan no. ITNS 281 is to be used. All companies and deductors who are liable to tax audit have to make payment of tax by electronic mode. Others can make payment of tax either physically or by electronic mode.

4. *TDS Return:*
Person deducting tax is required to file quarterly statements for the quarter ending on 30 June, 30 September, 31 December and 31 March in each financial year, in Form 26Q (Form 24Q for Salary) along with Form 27A, on or before 31 July, 31 October, 31 January and 31 May respectively. Form 26Q and Form 24Q are to be filed electronically while Form 27A is to be filed in physical form.
5. *Certificate for tax deduction in case of non-salary payments:*
TDS Certificate in Form 16A is required to be issued on quarterly basis within 15 days from the due date of furnishing the statement of TDS i.e. on or before 15 August, 15 November,15 February and 15 June for quarters ended 30 June, 30 September, 31 December and 31 March respectively.
6. *Certificate for tax deduction in case of salary payments:*
TDS Certificate in Form 16 is required to be issued on annual basis by 31 May of the financial year immediately following the financial year in which the income was paid and tax deducted.
7. *Higher TDS rate of 20% for not furnishing PAN:*
In case the payee is not able to furnish his/her PAN to the payer, tax shall be deducted w.e.f. 1 April 2010 at higher of the rates specified in the relevant provision of the IT Act or at the rates in force or 20%.
8. *Under Section 194A, the threshold limit is INR 10,000* ***(For Senior Citizens INR 50,000)*** *where the payer is a banking company or a co-operative society engaged in banking business or in case of deposits with post office under a scheme notified by Central Government and INR 5,000 in any other case. Further, tax is not to be deducted if the payee furnishes to the payer a declaration in writing in duplicate in Form No.15G or 15H, as the case may be.*
9. *An individual or HUF is not liable to deduct tax. However, an individual or HUF, who is liable to tax audit under section 44AB during the financial year immediately preceding the financial year in which sum is credited or paid, shall be liable to deduct tax under sections 194A, 194C, 194H, 194I and 194J, as the case may be.*
10. *Above rates are not applicable in case of payments made to foreign companies and non-residents except in case of sections 192, 194B, 194BB, which are also applicable to non-residents.*
11. *Tax is required to be deducted on remuneration paid to a director which is not in the nature of salary.*
12. *Individuals covered under section 194I are also eligible for filing self-declaration in Form No. 15G/15H for non-deduction of tax at source in accordance with provisions of section 197A.*

13. *An investment fund (registered with SEBI) paying interest income to an investor being a Non-resident, not being a company, or to a Foreign company under section194LBB shall be liable to deduct tax as per "rates in force" instead of a mandatory 10%. Also section 197 is now to include section 194LBB in the list of sections for which lower or no TDS certificate can be obtained.*
14. *The limit under section 194J is reduced from 10% to 2% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call centre.*
15. *In order to reduce compliance burden in the case of Individuals and HUFs , section 197A is amended so as to make such assessees eligible for filing declaration in Form.No.15G/15H for non-deduction of tax at source in respect of insurance commission referred to in section 194D.*

DIRECT TAX PROPOSALS

4.1. General Tax Incentives:

4.1.1. Introduction of a standard deduction on salary income of INR 40,000

- Presently, employees are allowed the following deductions:
  - Transport/Conveyance allowance (INR 19,200 p.a)
  - Reimbursement of medical expenses (upto INR 15,000 p.a)
- It has been proposed to subsume the above mentioned allowances into a standard deduction of INR 40,000 or the amount of salary received, whichever is less.
- However, in case of differently abled persons, Transport/Conveyance allowance will continue to be available.

4.1.2. Ready Reckoner Rate relief on purchase/sale of immovable property.

- Presently, if the sale consideration of immovable property is lower than the Stamp Duty value, then the difference is treated as Income in the hands of buyer as Income from Other Sources as well as in the hands of the seller u/s 43CA or 50C. This creates genuine hardship particularly in cases of minor differences in the property such as location, shape, view etc. of the property.
- In order to remove such hardship, it is proposed that no tax adjustments shall be made as long as the stamp duty value does not exceed 5% of sale consideration.

4.1.3. Trusts and Institutions – Restrictions on payments made in cash and following provisions of TDS

- Presently, there is no disallowance of expenses incurred in cash by Charitable Trusts and Religious Institutions nor for non compliance of withholding tax.
- In order to encourage a cashless economy and to reduce generation of black money, it has been proposed to exclude payments made in cash above INR 10,000/- or expenses incurred without deduction of tax at source while determining quantum of application of funds for such organsiations.

4.1.4. Measures To Promote Start-Ups:

Present Provision	Proposed amendment
Deduction shall be available to an eligible start-up for three consecutive AYs out of seven years at the option of the assessee, if:	
(i) It is incorporated on or after 01.04.2016 but before 01.04.2019.	(i) Provisions extended to incorporations made before

	01.04.2021.
(ii) Total turnover in any of the five years from F.Y. 2016-17 to F.Y. 2020-21 does not exceed INR 25 crores.	(ii)Total turnover in any of the seven years commencing from the date of incorporation does not exceed INR 25 crores.
(iii) It is engaged in the eligible business involving innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.	(iii) The definition of eligible business has been expanded to also include start-ups having a scalable business model with a high potential of employment generation or wealth creation.

4.1.5. Restriction on Exemption of 54EC Bonds

- Presently, capital gain arising from the transfer of any long-term capital asset is eligible for exemption if invested in certain bonds, subject to certain conditions.
- It has been proposed to restrict the benefit to only to LTCG on land or building or both.
- It has been further proposed to increase the lock in period of such Bonds from 3 years to 5 years in respect of bonds issued on or after 1st April, 2018.

4.2. Expanding Tax Base

4.2.1. Taxation of Long Term Capital Gains (LTCG) on sale of STT paid equity shares/ units u/s 112A

- Presently, LTCG on transfer of equity shares or an unit of equity oriented fund or an unit of business trusts, is exempt from income-tax u/s 10 (38) of the Act, if STT is paid.
- It has been proposed to withdraw the above exemption for transfers on or after 01.04.2018. Accordingly, a new section 112A has been introduced which provides that LTCG arising from transfer of STT paid equity shares/ units shall be taxed at **10%** (without indexation), on the capital gains **exceeding INR 1,00,000/-.**
- The above concessional rate of **10%** on LTCG will be applicable, only in the cases below:
  - Equity share - STT has been paid on both acquisition (subject to certain exceptions) and transfer of such equity share;
  - Unit of an equity oriented fund or a unit of a business trust - STT has been paid on transfer of such unit.
- The cost of acquisition in respect of the long term capital asset acquired before the 1st February, 2018, shall be deemed to be the **higher of** –
  a) the actual cost of acquisition of such asset; and
  b) the **lower** of –
     (i) the fair market value of such asset; and
     (ii) the full value of consideration received or accruing as a result of the transfer of the capital asset.
- Fair market value has been defined to mean –
  a) In case of shares/unit, listed on any recognized stock exchange, the highest price quoted on such exchange on the 31st day of January, 2018.

  b) in a case where the capital asset is a unit and is not listed on recognized stock exchange, the net asset value of such asset as on the 31st day of January, 2018.
- The above provisions would also apply to Foreign Institutional Investors u/s 115AD.

The above provisions are explained hereby with the following illustration:

Particulars	**Present provisions u/s 10(38)**	**As per Amendment u/s 112A**		
		Scenario I	**Scenario II**	**Scenario III**
		Sale before 31.03.2018	**Sale after 31.03.2018 with LTCG**	**Sale after 31.03.2018 with LTCL**
Purchase date	01.08.16	01.03.17	01.08.17	01.08.17
Sale Date	15.08.17	25.03.18	15.08.18	15.08.18
Purchase price	1,50,000	1,50,000	1,50,000	2,00,000
Highest Price as on 31.01.2018	NA	1,75,000	1,75,000	1,75,000
Sale price	2,20,000	3,25,000	3,25,000	1,80,000
Cost of acquisition will be	1,50,000	1,50,000	1,75,000	2,00,000
Whether Taxable / Exempt	**Exempt**	**Exempt**	**Taxable**	**Taxable**
Total Capital Gain	70,000	1,75,000	1,50,000	(20,000)
Taxable capitalgain	-	-	50,000	Loss C/f
Explanation	**Fully exempt u/s 10(38)**	**Fully exempt u/s 10(38) - Since shares are sold before 31.03.18**	**Capital gain exceeding INR 1,00,000 will be taxable**	**Loss will be allowed to be set off against other LTCG or to be C/F u/s 74**

4.2.2. Taxation of Compensation in connection with Business or Employment:

- It has been proposed to tax any compensation, whether capital or revenue in nature in connection with termination or the modification of the terms and conditions of any contract relating to its business as business income.
- It has been proposed to tax any compensation, whether capital or revenue in nature in connection with termination of the employment or modification of the terms and conditions relating to employment as income from other source.

4.3. <u>Rationalization Measures</u>

4.3.1. Conversion of Stock-in-trade into Capital Asset.

- Presently, there is a mechanism for taxability of conversion of capital asset into stock-in-trade u/s 45(2).
- However, there is no mechanism for taxing conversion of stock in trade into capital asset. Due to no such mechanism, there is deferment of tax.
- Now, in order to bring a systematic mechanism for taxability, the following provisions have been proposed:
  - Difference between FMV on the date of conversion and cost of inventory shall be taxed as business income on the date of conversion u/s 28.
  - For the purpose of computation of capital gain at the time of transfer of such converted assets, FMV on the date of conversion shall be the cost of acquisition u/s 49.
  - Period of holding shall be counted from date of conversion u/s 2(42A).

4.3.2. Tax Neutrals:

- Presently, transfers between a wholly owned subsidiary and its holding company are excluded from the purview of capital gains.
- It has been proposed to provide a similar benefit under gift tax provisions.

4.3.3. Dividend Distribution Tax on Deemed Dividend

- Presently, deemed dividend u/s 2(22)(e) of the Act is taxed in the hands of the recipient at the applicable marginal rate. However, this treatment has led to administrative difficulty in collection of tax as well as conflicting litigation

  In order to bring certainty in taxation of deemed dividends, it has been proposed to levy DDT @ **30%** on deemed dividends in the hands of the distributing company.

4.3.4. Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund

- Presently, any income distributed by specified company/ Mutual Fund to its unit holders is chargeable to tax. However, any income distributed to a unit holder of equity oriented funds is not chargeable to tax.
- It has been proposed that any income distributed by a Mutual Fund being, an equity oriented fund, shall be liable to pay additional income tax at the **rate of 10%.**

4.3.5. Increase in scope of Accumulated profits in Amalgamation

- Presently, "accumulated profit" for the purpose of dividend distribution/ payments u/s 2(22), includes all profits of the company up-to the date of distribution / payment.
- In order to escape liability of paying tax on distributed profits as per the provisions of section 2(22), companies with large accumulated profits are adopting a practice of amalgamation to reduce capital.
- It has been proposed that with a view to prevent such abusive arrangements, 'accumulated profits' of an amalgamated company shall be increased by the accumulated profits of the amalgamating company, on the date of amalgamation.

4.4. Enhanced Deductions to Senior Citizens

4.4.1. Higher deductions for health insurance premium and medical treatment [Section 80D]:

- Presently, deduction upto INR 30,000 is available to an assessee, being an individual or a HUF, in respect of payments towards annual premium on health insurance policy or preventive health checkup, of a senior citizen (60 years and above), or medical expenditure in respect of very senior citizen (80 years and above).
- It has been proposed to amend section 80D so as to raise this monetary limit of deduction from INR 30,000 to INR 50,000.
- Further, in case of single premium health insurance policies, the deduction of premium paid shall be allowed on proportionate basis over the period of health insurance cover subject to the monetary limits.

4.4.2. Higher deductions for medical treatment of specified diseases [Section 80DDB]:

- Presently, deduction is provided to an individual and HUF with regard to amount paid for medical treatment of specified diseases in respect of very senior citizen (80 years and above) upto INR 80,000 and in case of senior citizens (60 years and above) upto INR 60,000.
- It is proposed to increase the above mentioned limit of section to INR 1,00,000 for **both senior citizen and very senior citizen**.

4.4.3. Higher Deduction in respect of interest income from deposits in Bank:

- Presently, a deduction upto INR 10,000 is allowed under section 80TTA to any individual or HUF in respect of interest income from savings account.
- It has been proposed that in order to give benefit to senior citizens (60 years and above), income from bank deposits and post office deposits will be allowed as a deduction upto INR 50,000 vide new section 80TTB. However, in such cases, no further deduction under section 80TTA shall be allowed.
- Consequently, the threshold for deduction of TDS on interest income for senior citizens has been proposed to be increased from INR 10,000 to INR 50,000 under section 194A.

4.5. Cross Boarder Transaction:

4.5.1. Aligning the scope of "Business Connection" with modified PE rule as per MLI

- Presently, under explanation 2 to section 9(1) (i), "business connection" includes business activities carried on by a non-resident through dependent agent who habitually exercises conclusion of contract on behalf of non-resident principal. This provision is similar to Dependent Agent Permanent Establishment (DAPE) given in India's Double Taxation Avoidance Agreements (DTAAs) with various countries.
- Now, it is proposed to widen the definition of 'business connection' to also include case where an agent habitually plays the principal role leading to conclusion of contracts, following the recommendations under BEPS Action 7 of OECD.
- The amendment is being proposed to widen the provisions of section 9(1)(i) of the Act and to align the same with the expanded Dependent Agent provisions of the tax treaties post modifications by the MLI, signed by various countries last year, and to which India is also a signatory.

4.5.2. "Business connection" to include "significant economic presence"

- Presently, section 9 of the Act provides **physical presence** based nexus rule for taxation of business income of the non- resident in India. As per this section, the term "business connection" includes taxability of certain activities or transactions of non- resident carried out through a dependent agent.
- Now, in order to further align with the BEPS Action plan, it is further proposed that 'Significant Economic Presence' of a non-resident shall constitute "business connection" in India

  For this purpose, 'Significant Economic Presence' shall mean:

  - any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the tax year exceeds the amount as may be prescribed; or

  - systematic and continuous soliciting of its business activities or engaging in interaction with such number of users, as may be prescribed, in India through digital means

- The intended objective appears to tax income on 'New Nexus Rule' of economic location or economic allegiance in the virtual world wherein requirement of presence of the seller/service provider in the source country (where customer exists) is diminishing in various businesses.

4.5.3. Rationalisation of provisions relating to country-by-country report

- Presently, provision of section 286 contains that every parent entity or the Alternative Reporting Entity (ARE), resident in India, shall furnish Country-by-Country Report (CbCR) on or before the due date specified u/s 139 (1) of the Act for furnishing the return of income i.e. 30 November.
- With the recommendation of BEPS Action Plan 13, it is proposed to amend the time limit from the due date of filing return to 12 months from the end or reporting F.Y.
- Due date in case where ARE of the international group, parent entity of which is outside India is as specified in the territory/reporting country.
- ***"Alternate reporting entity"*** shall have the same meaning as specified under sub section 9 of Section 286.

  These amendments will take effect retrospectively from **F.Y. 2016-17**

4.6. Harmonising Provisions for Income Computation and Disclosure Standards (ICDS):

The ICDS were introduced in order to provide a framework for computation of income w.e.f. F.Y. 2016 -17. The ICDS led to litigations at various courts and recently the Hon'ble Delhi High Court while deciding the writ petition filed by the Chamber of Tax Consultants held that certain provisions of the ICDS are contrary to the Income Tax Act, 1961. In order to regularise the compliance with the notified ICDS, several amendments and new sections are proposed, particularly dealing with manner of computation of income and allowability of deductions.

4.6.1. Deduction on account of mark-to-market or other expected forex losses

- Presently, expected loss or marked to market loss through any instrument for hedging currency related risk is allowed as a deduction based on commercial accounting principles and judicial pronouncements.
- It has been proposed to introduce a new provision under 36(1)(xviii) to provide deduction in respect of marked to market losses or expected losses in line with ICDS-VI 'Effects of changes in foreign exchange rates'. As per ICDS-VI, only marked to market losses or expected forex losses in respect of only forward exchange contracts are recognised as an expense.
- Further, a new provision has been introduced under section 40A(13) stating that no deduction shall be allowed for any other losses arising on hedging instruments other than losses allowable under section 36(1)(xviii).

4.6.2. Treatment of gain or loss on account of changes in foreign exchange rates

It has been proposed to introduce a new section 43AA in line with ICDS-VI on 'Effects of changes in foreign exchange rates' which deals with transactions in foreign currency. Any exchange differences for monetary items on their settlement or conversion at the closing date shall be treated as income or expense, as the case may be. In respect of exchange difference on settlement of non-monetary items, provisions of section 43A would apply, i.e. adjustment to the cost.

4.6.3. Profits arising from construction or service contracts

- It has been proposed to introduce a new section 43CB to provide treatment of profits arising from construction or service contracts. Such profits shall be determined on the basis of percentage completion method.

- The exceptions in determination of profits are as under:

Nature of contract	**Method of recognition of profits**
Service contract for duration of 90 days or less	Project completion method
Service contract involving indeterminate acts over specified time	Straight line method

- Further the proposed section states that contract revenue would include retention money. It is also stated that the contract cost shall not be reduced by incidental interest, dividend and capital gains. Such incomes shall be offered to tax separately under the relevant heads of income.

4.6.4. Valuation of inventory

- Presently, inventory is valued as per the method of accounting regularly followed.
- **It is now proposed:**
  - As per the amendment in section 145A, inventory should be valued at lower of cost or net realisable value.
  - Further the section also provides for valuation of inventory being securities.
  - Listed securities which are quoted on recognised stock exchange shall be valued at cost or net realisable value, whichever is lower.
  - Unlisted securities and listed securities which are not quoted on recognised stock exchange shall be valued at actual cost.
  - In this, any tax, duty, cess or fee as per any law to be included.

4.6.5. Income recognition in case of certain incomes

It is proposed to insert a new section 145B to provide for the following:

- Interest on compensation or enhanced compensation and subsidy or grant received from the government shall be recognised as income in the year of receipt.
- Claim for escalation of contract shall be recognised as income in the year when there is reasonable certainty to receive the same.

All these amendments and newly inserted sections will be retrospectively applicable from 1st April, 2017.

4.7. Assessments and Appeals:

4.7.1. No adjustments while processing of return of income

- Presently, under section 143(1), adjustments in respect to the additions of income that is not included in the return of income but appears in Form 26AS or Form 16A or Form 16 can be made while processing the return of income.
- It has been proposed to curtail the scope of such adjustment by inserting a new proviso that no such adjustment shall be made in respect for any return furnished on or after 1st April, 2018.

4.7.2. Focus on scrutiny e-assessments

- As a part of the 'Digital India' initiative, the government had introduced e-assessment on a pilot basis in 2016. In order to implement this as full-fledged procedure, it has been proposed to introduce a new scheme of e-assessment under section 143(3A).
- Further, it has been proposed that the Central Government is empowered to issue notifications to clarify the applicability of the procedure for e-assessment with certain exceptions, modifications or adaptations as may be required upto 31st March, 2020. All such notifications shall be laid before each House of Parliament as soon as may be.

4.7.3. Amendment in section 276CC- Failure to furnish returns of income

- Presently, under section 276CC of the Act, if a person wilfully fails to furnish the return of income in due time, he shall be punishable with imprisonment for a term, as specified therein and with fine. However this section was not applicable to persons whose tax payable did not exceed INR 3,000/-.
- It has been proposed to amend the section to make it applicable to the companies even if tax payable does not exceed INR 3,000/-.

4.8. Relaxations to companies seeking insolvency resolution

4.8.1. Benefit of set off and carry forward of losses for companies under IBC

- Presently, section 79 allows carry forward and set off of losses only when there is continuity in beneficial shareholding of a company of not less than 51% of the voting power.
- Exceptions to this section:
  - Change in shareholding pattern consequent to death of a shareholder or transfer on account of gift to any of the relative of the shareholder.
  - In case of an Indian company, which is a subsidiary of a Foreign company and the foreign company is subject to amalgamation or demerger provided that 51% shareholders of the amalgamating or demerged company (Foreign Co) continue to be the shareholders of the amalgamated or the resulting company (New Co.).

- An additional exception has been proposed wherein the company under insolvency procedure shall be allowed to carry forward and set off any losses despite change in shareholding pattern beyond the specified limits of section 79, if the change in the shareholding is due to compliance of the resolution plan approved by the IBC after giving a reasonable opportunity of being heard before the jurisdictional PCIT or CIT.

4.8.2. MAT Relaxation for companies under IBC

- Presently, while computing the book profits for levy of MAT, deduction is allowed in respect of amount of loss brought forward or unabsorbed depreciation as per books of accounts of the company, whichever is less. Thus, where amount of brought forward loss or unabsorbed depreciation is NIL, no deduction is allowed to the company.
- It has been proposed to make an exception for a company whose application for corporate insolvency resolution process has been admitted by the authority under the Insolvency and Bankruptcy Code, 2016. Herein, the aggregate amount of brought forward losses and unabsorbed depreciation is proposed to be allowed as a deduction from the company's book profits.

4.8.3. Verification of return of income for company under IBC

It has been proposed u/s 140(c) that the verification of the return of income for the company who is seeking insolvency resolution under IBC shall be done by an insolvency professional appointed by the Adjudicating Authority.

4.9. Incentives for the Agriculture sector

4.9.1. Deduction in respect of income of farm producer companies

- Presently, co-operative societies, providing assistance to its members engaged in primary agricultural activities enjoy 100% deduction on its profits under section 80P.
- It has been proposed to extend this benefit to Farm Producer Companies, involved in agricultural activities, having a total turnover upto INR 100 crores for a period of 5 years from FY 2018-19 onwards.

4.9.2. Tax treatment of transactions in respect of trading in agricultural commodity derivatives:

- Presently, trading in commodity derivatives, carried out on a recognised stock exchange and chargeable to commodity transaction tax are considered as non-speculative transactions.
- In order to encourage participation in trading of agricultural commodity derivatives, it has been proposed that agricultural commodity derivatives traded on a registered stock exchange / association but not chargeable to commodity transaction tax will still be treated as non-speculative transactions.

4.10. Other Notable Measures:

4.10.1. Tax treatment of unexplained income/ expenditure/ cash credit/ investments/ amount borrowed as hundi

- Presently, no deduction or allowance or set off of any loss is allowed against income referred in section 68/69/69A/69B/69C/69D which is taxable under section 115BBE, if such income is considered in the return of income filed by the assessee.
- A clarificatory amendment has been proposed wherein no deduction or allowance or set off of any loss shall be allowed in a case where such income is added while finalising the assessment by the assessing officer. This provision will be retrospectively applicable from 1st April, 2017.

4.10.2. Return to be filed in time to claim deduction in respect of certain incomes [Section 80AC]

- Presently, no deduction under section 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE is allowed unless the Income Tax Return is filed by the due date.
- It has been proposed to extend the scope of this restrictive provision to include all the sections (80H to section 80TT) under Heading C of Chapter VI-A which will not be allowable as deductions unless the Income Tax Return if filed by the due date.
- It is to be noted that several widely used deductions such as 80C, 80D, 80TTA, 80G etc. are still allowable on filing belated Income Tax Returns.

4.10.3. Widening the scope of deduction under section 80-JJAA

- Presently, an additional deduction of 30% of emoluments paid to eligible new employees, who have been employed for a minimum period of 240 days during the year (150 days in the case of apparel industry) is available under section 80-JJAA.
- It has been proposed to extend the benefit of a reduced minimum period of employment to footwear and leather industry in addition to the apparel industry.
- It is further proposed that even if the employee is employed for less than the minimum required period during the first year of employment, the deduction shall still be allowed as long as he continues to be employed for the minimum period in the next year.

4.10.4. Benefit of tax-free withdrawal from National Pension Scheme:

- Presently, only employee subscribers are entitled to an exemption of 40% of the total amount payable to him on closure of his account or on his opting out u/s 10(12A).
- The amendment now provides the tax-free benefit of withdrawal from NPS to all of its subscribers including non-employee subscribers.

4.10.5. Extension of TDS provisions to 7.75% GOI Savings (Taxable) Bonds, 2018.

- Presently, the payer of interest is required to deduct tax at source under Section 193, if the taxable income on 8% GOI Savings (Taxable) Bonds, 2003 exceeds INR 10,000 p.a.
- The same provision to deduct Tax at source under Section 193, shall extend to interest payments on 7.75% GOI Savings (Taxable) Bonds, 2018.

4.10.6. Mandatory PAN for entities entering into financial transactions aggregating to INR 2,50,000 or more in a F.Y.

- Presently, an assessee needs to apply for a PAN only if:
  - the total income exceeds the maximum amount not chargeable to tax; or
  - total sales, turnover or gross receipts exceed INR 5,00,000/-; or
  - who is required to furnish return of income u/s 139(4A)
- It has been proposed that it is now mandatory to obtain a PAN for all non-individual entities, which enter into a financial transaction of an amount aggregating to INR 2,50,000/- or more in a F.Y.

  Further, in order to link the financial transactions with the natural persons, any person competent to act on behalf of such entities shall also apply to the Assessing Officer for allotment of PAN.

4.10.7. Non applicability of MAT for certain foreign companies

- A clarificatory amendment is proposed to provide exemption to a foreign company from applicability of MAT provisions, if it is solely engaged in business of shipping, exploration of mineral oils, operation of aircrafts and civil construction in turnkey power projects and are opting for presumptive taxation.

4.10.8. Presumptive income in case of goods carriages u/s 44AE

- Presently, for an assessee engaged in the business of plying, hiring or leasing of goods carriages, who owns not more than ten goods carriages at any time during the financial year, an amount equal to INR 7,500 for every month or part of a month during which the goods carriage is owned by the assessee in the financial year or an amount claimed to have been actually earned from the vehicle, whichever is higher shall be deemed as income chargeable under the head "Profits and gains of business or profession".

- It has been proposed that in order to maintain principle of tax equity, the transporters who own less than 10 goods carriages but have huge tonnage capacity goods carriages i.e. weighing more than 12MT, an amount equal to INR 1,000 per ton of gross vehicle weight or the weight of a vehicle when not loaded with goods for every month or part of a month or an amount claimed to have been actually earned from the vehicle, whichever is higher shall be deemed as income chargeable under the head "Profits and gains of business or profession".

4.10.9. Measures to Promote International Financial Services Centre (IFSC)

- It has been proposed that in order to promote the development of world class financial infrastructure in India, it is proposed that following assets, by a non-resident on a recognized stock exchange located in any IFSC, shall not be regarded as transfer if the consideration is paid or payable in foreign currency:-
  i. Bond or Global Depository Receipt, as referred to in sub-section (1) of section 115AC; or
  ii. Rupee denominated bond of an Indian company; or
  iii. Derivative.
- It has also been proposed that for a unit located in an IFSC, AMT shall be charged at the **rate of 9%.**

4.10.10. Special tax rates for newly formed domestic companies

- Presently, the total income of the domestic company set up and registered on or after 1st March 2016 and fulfilling conditions as per section 115BBA is chargeable to tax at 25% other than short term and long term capital gains which is chargeable at special rates as per section 111A and 112 respectively.
- It has been proposed that such company shall be taxable at the rate of 25% on all income of such company other than incomes specifically mentioned in Chapter XII of the Act i.e. incomes taxable shall be taxable at special rates (eg. dividend received from foreign company will be

taxed at 15%, winning from lotteries will be taxed at 30%, short term STT paid capital gains taxed at 15%).

The amendment has retrospective effect and is applicable from FY 2016-17.

4.10.11. Commodity Transactions Tax (CTT).

It is proposed to levy CTT on "options on commodity derivative". The CCT chargable on Sale of an option on commodity derivative to seller shall be @ 0.05% and on Sale of an option on commodity derivative, where option is exercised to purchaser @ 0.0001%.

INDIRECT TAX PROPOSALS

5.1. The Customs Act, 1962:

5.1.1. Extension of applicability of the Customs Act, 1962

Section 1 of the Customs Act, 1962, determining the extent of applicabilityof the Act is now amended to extend its applicability to any offences or contraventions committed outside India by any person under its purview

5.1.2. Section 2 of the Customs Act, 1962 is now amended as follows

- **Increased scope in making Assessments**
  Presently, "Assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is Nil.
- It has been proposed that "Assessment" would mean determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to:
  (a) the tariff classification,
  (b) the value of such goods,
  (c) exemption or concession of duty, tax, cess or any other sum,
  (d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;
  (e) the origin of such goods, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;
  (f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods; and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

- **Extension of Indian Custom Waters**
  Limit of Indian Custom Waters is now extended to 'Exclusive Economic Zone (EEZ)' of India u/s 7 from the existing limit of 'Contiguous zone of India' u/s 5.

5.1.3. Expansion of the scope of verification under self-assessment

- Presently, an importer importing goods u/s 46, or an exporter exporting goods u/s 50, is required to self-assess the duty, if any, leviable on such goods and the proper officer may verify the self-assessment of such goods and for this purpose, examine or test any imported or export goods.
- It is now proposed to expand the scope of verification beyond self-assessment to all the entries u/s 46 or u/s 50.
- New sub-section (2A) has been inserted to provide legal backing for the risk-based selection of self-assessed Bill of Entry or Shipping Bill through appropriate selection criteria.

5.1.4. Extension of the scope of provisional assessment of duty

- It has been proposed that, export consignments shall also be covered under the purview of provisional assessments.
- It has been proposed to issue regulation for providing time-limit for the importer or exporter to submit the documents and information, if required, for finalization of provisional assessments and for the proper officer to finalize the provisional assessment;

5.1.5. Exemption from Customs duty in certain cases

- It has been proposed to exempt goods imported for repair, further processing or manufacture (inward processing of goods), re-imported after export for repair, further processing or manufacture (outward processing of goods) from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions.

5.1.6. Recovery of duties not levied or not paid or short levied or short paid or erroneously refunded

- It has been proposed to provide that the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest before issuing recovery notice.
- It has been proposed to provide for issuance of supplementary show cause notice in circumstances and in such manner as may be prescribed through regulations within the existing time period of one year.
- It has been proposed to provide that where an order for refund is modified in any appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the applicable rate from the date of refund up to the date of recovery.

5.1.7. Application for Advance Ruling

- It has been proposed to empower the Central Government to notify any matter on which advance ruling can be sought by an applicant.
- It has also been proposed to allow representation of an applicant by a duly authorized person who is a resident in India.

5.1.8. Extension of time limit for pronouncement of advance rulings

- It has been proposed to reduce the time within which the authority shall pronounce its advance rulings from six months to three months.

5.1.9. It has been proposed that the delay in furnishing details in export manifest without sufficient cause shall result into **penalty upto INR 50,000.**

5.1.10. Powers of the Commissioner (Appeals)

- It has been proposed to allow Commissioner (Appeals) to remand back matters to original adjudicating authority in specified categories of cases, namely -
  i. where an order or decision has been passed without following the principles of natural justice; or
  ii. where no order or decision has been passed after re-assessment under section 17; or

iii. where an order of refund under section 27 has been issued crediting the amount to the fund without recording any finding on the evidence produced by the applicant.

5.1.11. Service of order, decision, etc.

It has been proposed to include Speed Post, Courier, and registered email as valid modes of delivery and in case of non-service by such means, to also provide for affixing it at the last known place of business or residence in addition to affixing it on the notice board of the Customs House etc.

5.1.12. Clearance of goods and presentation of shipping bill or bill of export through Customs Automation System

It has been proposed to have provision for clearance of goods and presentation of a shipping bill or a bill of export by Customs Automated System in addition to existing clearance by the proper officer.

5.1.13. Payments through Electronic cash Ledger

It has been proposed to enhance payments through electronic cash ledger by providing for advance deposit which would enable payment of duties, taxes, fee, interest and penalty through electronic cash ledger.

5.1.14. Extension of time limit to issue notice in case of seizure of goods

- Presently, when no notice in respect of seized goods is given within six months, the goods shall be returned to the person from whose possession they were seized.
- It has been proposed to extend the six months period by a period not extending six months and inform the person from whom such goods have been seized before the expiry of such time.
- Further a new proviso has been proposed providing that where any order of provisional release of the seized goods has been passed, the aforesaid period of six months shall not apply.

5.1.15. Option to pay fine in lieu of confiscation

- In case of confiscation, the proper officer may, in case of prohibited goods, give to the owner of the goods, an option to pay fine in lieu of confiscation, such fine as the said officer thinks fit.
- It has been proposed to provide that if the redemption fine is not paid within a period of 120 days from the date of option, then such option shall become void, except in cases where an appeal against such order is pending.

Explanation to the above section is inserted, which states that for an order passed before the date on which assent of the president is received for the Finance Bill, 2018, and no appeal against such order is pending, such option may be exercised within one hundred and twenty days from the date on which such assent is received.

5.2. The Customs Tariff Act, 1975:
Amendments In The First Schedule To The Customs Tariff Act, 1975

	Amendments affecting rates of BCD [to be effective from 02.02.2018]		Rate of Duty	
S. No.	**Heading, sub-heading tariff item**	**Commodity**	**From**	**To**
		Food Processing		
1	2009 21 00 to 2009 90 00	Fruit juices and vegetable juices including cranberry juice	30%	50%
		Perfumes and toiletry preparations		
2	3303	Perfumes and toilet waters	10%	20%
3	3304, 3307	Beauty or make-up preparations	10%	20%
4	3305	Preparations for use on the hair	10%	20%
5	3306	Preparations for oral or dental hygiene	10%	20%
		Automobile parts		
6	4011 20 10	Truck and Bus radial tyres	10%	15%
7	8407, 8408, 8409, 8483 10 91, 8483 10 92, 8511, 8708, 8714 10	Specified parts/accessories of motor vehicles, motor cars, motor cycles	7.5%/ 10%	15%
		Footwear		
8	6401, 6402, 6403, 6404, 6405	Footwear	10%	20%
9	6406	Parts of footwear	10%	15%
		Jewellery		
10	7117	Imitation Jewellery	15%	20%
		Electronics / Hardware		
11	8517 12	Cellular mobile phones	15%	20%
12	3919 90 90, 3920 99 99, 3926 90 91, 3926 90 99, 4016 99 90, 7318 15 00, 7326 90 99, 8504, 8506, 8507, 8517 70 90,	Specified parts and accessories including lithium ion battery of cellular mobile phones	7.5%/ 10%	15%

	8518, 8538 90 00, 8544 19, 8544 42, 8544 49			
13	8517 62 90	Smart watches / wearable devices	10%	20%
14	8529 10 99 8529 90 90	LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5%/ 10%	15%
		Furniture		
15	9401, 9403, 9404, 9405	Seats and parts of seats, mattresses, lamps and lighting fittings and other furniture and parts	10%	20%
		Watches and Clocks		
16	9101, 9102, 9103,9105	Watches and clocks	10%	20%
		Toys and Games		
17	9503, 9504, 9505, 9506, 9507, 9508.	Toys and Games	10%	20%
		Miscellaneous items		
18	3406	Candles, tapers and the like	10%	25%
19	4823 90 90, 9004 10, 9611, 9613, 9616.	Kites, Sunglasses, sealing or numbering stamps, Cigarette lighters and other lighters, Scent sprays and similar toilet sprays, cosmetic or toilet preparations.	10%	20%

Amendments In The Second Schedule To The Customs Tariff Act, 1975

S. No.	**Amendment**		
A	**Amendments not affecting rates of Export duty**	**Rate of Duty**	
		From	**To**
1.	Electrodes of a kind used for furnaces	--	20%

Other Proposals Involving Changes In Basic Customs Duty Rates

S. No.	**Heading, sub - heading tariff item**	**Commodity**	**From**	**To**
		Food processing		
1	0801 31 00	Cashew nuts in shell [Raw cashew]	5%	2.5%
2	2009 11 00 2009 12 00	Orange fruit juice	30%	35%

	2009 19 00			
3	2009 81 00, 2009 90 00	Cranberry Juice	10%	50%
4	2106 90	Miscellaneous Food preparations (other than soya protein)	30%	50%
		Textiles		
5	5007	Silk Fabrics	10%	20%
		Capital goods and Electronics		
6	8504 90 90/ 3926 90 99	Printed Circuit Board and moulded plastics of charger/adapter of cellular mobile phones	Nil	10%
7	Any Chapter	Inputs or parts for manufacture of: a) PCBA, or b) moulded plastics of charger/adapter of cellular mobile phones of cellular mobile phones	Appli cable Rate	Nil
8	8483 40 00, 8466 93 90, 8537 10 00	Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools	7.5%	2.5%
9	70	Solar tempered glass	5%	Nil
10	70	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	Nil	5%
11	8529/4016	12 specified parts for manufacture of LCD/LED TV panels	Nil	10%
		Automobile and automobile parts		
12	8702, 8703, 8704, 8711	CKD imports of motor vehicles, motor cars, motor cycles	10%	15%
13	8702, 8704	CBU imports of motor vehicles	20%	25%
		Diamonds and Precious stones		
14	71	Cut and polished colored gemstones;	2.5%	5%
15	71	Diamonds (other than rough diamonds), including cut and polished diamonds	2.5%	5%
		Medical Devices		
16	Any Chapter	Raw materials, parts or accessories for the manufacture of Cochlear Implants	2.5%	Nil
		Rationalization in Customs duty rates		
		Edible oils of vegetable origin		
17	1508, 1509, 1510,1512, 1513, 1515	Crude edible vegetable oils	12.5%	30%

18	1508, 1509, 1510,1512, 1513, 1515, 1516 20, 1517 10 21, 1517 90 10, 1518 00 11, 1518 00 21, 1518 00 31	Refined edible vegetable oils	20%	35%
		Refractory Items		
19	6815 91 00	Other articles of stone containing magnesite, dolomite or chromite	10%	7.5%
20	6901	Bricks, blocks, tiles and other ceramic goods	10%	7.5%
21	6902, 6903	Refractory bricks, blocks, tiles	5%	7.5%

Levy Of Social Welfare Surcharge, As A Duty Of Customs On Imported Goods [Clause 108 Of The Finance Bill]

S. No.	Heading, sub - heading tariff item	Description	From	To
1	Any chapter	To finance education, housing and social security [clause 108 of Finance Bill, 2018]	--	10% of aggregate duties of customs
2	Any chapter	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods [clause 106 of Finance Bill, 2018]	3% of aggregate duties of customs [2% + 1%]	Nil
3	2710	Motor spirit commonly known as petrol and high speed diesel oil	--	3% of aggregate duties of customs
4	7106	Silver	--	3% of aggregate duties of customs
5	7108	Gold	--	3% of aggregate duties of customs
6	Any	Specified goods hitherto	--	Nil

	Chapter	exempt from Education Cess and Secondary and Higher Education Cess on imported goods		

Levy of the Road and Infrastructure Cess [Clause 109 of the Finance Bill, 2018]

S. No.	Heading, sub-heading tariff item	Description	From	To
1	2710	On imported motor spirit commonly known as petrol and high speed diesel oil	--	INR 8/ litre
2	2710	Exemption from additional duty of customs on domestically produced motor spirit commonly known as petrol and high speed diesel oil	--	Nil
3	2710	Abolition of Additional Duty of Customs on imported motor spirit commonly known as petrol and high speed diesel oil	INR 6 per litre	Nil
4	Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty.			
	2710	(i) Motor spirit commonly known as petrol	INR 6.48 per litre	INR 4.48 per litre
	2710	(ii) High speed diesel oil	INR 8.33 per litre	INR 6.33 per litre

5.3. The Central Excise Act, 1944:
Proposals involving change in excise duty rates:

Sr. No.	Commodity	Rate of Duty	
		From	To
	Motor spirit commonly known as petrol and high speed diesel oil		
1.	Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high speed diesel oil.	--	INR 8 per litre
2.	Abolition of road cess on motor spirit commonly known as petrol and high speed diesel oil	INR 6 per litre	Nil
3.	Basic excise duty on:		
	(i) Unbranded Petrol	INR 6.48 per litre	INR 4.48 per litre
	(ii) Branded petrol	INR 7.66 per litre	INR 5.66 per litre
	(iii) Unbranded diesel	INR 8.33 per litre	INR 6.33 per litre
	(iv) Branded diesel	INR 10.69 per litre	INR 8.69 per litre
4.	Road and Infrastructure Cess on (i) 5% ethanol blended petrol, (ii) 10% ethanol blended petrol and (iii) bio-diesel, up to 20% by volume, subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends	--	Nil
5.	Road and Infrastructure Cess on petrol and diesel manufactured in and cleared from 4 specified refineries located in the North -East	--	INR 4 per litre

5.4. <u>The Finance Act, 1994 (Service Tax):</u>

5.4.1. The Finance Bill, 2018 has proposed to exempt certain services with retrospective effect from the erstwhile Service Tax Law. They are:

Sr. No.	Service	Period of Exemption
1	Life Insurance Services provided by the Naval Insurance Fund to personnel of Coast Guard, under the Group Insurance Schemes of the Central Government.	10-Sep-2004 to 30-Jun-2017
2	Services provided by the Goods and Services Tax Network (GSTN) to the Central Government or State Governments or Union territories administration.	28-Mar-2013 to 30-Jun-2017
3	Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both.	01-Apr-2016 To 30-Jun-2017

Note:

Tax already collected under earlier provisions shall be refunded provided application for the same is made within **six months** from the date on which Finance Bill, 2018 receives assent of the President.

5.5. Repeal Of Certain Enactments:

- Additional duty of Customs as well as Additional Duty of Excise on Motor Spirit commonly known as Petrol is proposed to be abolished.
- Additional duty of Customs as well as Additional Duty of Excise on High Speed Diesel oil is proposed to be abolished.
- Education Cess and Secondary and Higher Education Cess on imported goods are also proposed to be abolished.

INCOME TAX COMPLIANCE CALENDAR

In this chapter we have provided an overview of the various direct tax compliances from the perspective of a Company, Partnership Firm (including LLP), Individual and HUF.

Sr. No.	**Nature of Compliances**	**Person**		
		Company	**Partnership Firm / LLP**	**Individual and HUF**
1.	**Due dates for filing of Return of Income ('ROI') and obtaining Tax Audit Report (Note 1)**			
1.1	Person covered under tax audit (other than those to whom transfer pricing is applicable)	30 September (Note 2)		
1.2	Person covered under transfer pricing (For furnishing of Transfer Pricing Report in Form 3CEB same due date is applicable)	30 November		
1.3	Other persons	30 September	31 July	31 July
2.	**Advance Tax Payments for Income Tax (Note 3)**			
a.	1st Installment - on or before 15 June	15%	15%	15%
b.	2nd Installment - on or before 15 September	45%	45%	45%
c.	3rd Installment - on or before 15 December	75%	75%	75%
d.	4th Installment – on or before 15 March	100%	100%	100%
3.	**Tax Deducted at Source ('TDS')**			
a.	Tax must be deducted at the time of payment, in case of salary	Applicable	Applicable	Applicable, only if person is covered under tax audit in the
b.	In case of payments other than salary, at the time of making payment	Applicable	Applicable	

<table>
<tr><th rowspan="2">Sr. No.</th><th rowspan="2">Nature of Compliances</th><th colspan="3">Person</th></tr>
<tr><th>Company</th><th>Partnership Firm / LLP</th><th>Individual and HUF</th></tr>
<tr><td></td><td>or credit, whichever is earlier</td><td></td><td></td><td rowspan="2">preceeding previous year

(Note 2)</td></tr>
<tr><td>c.</td><td>Tax deducted must be deposited in the bank by 7th day of following month except tax deducted for payment or credit made in March must be deposited by 30th April</td><td>Applicable</td><td>Applicable</td></tr>
<tr><td>4.</td><td colspan="4">Tax Collected at Source ('TCS')</td></tr>
<tr><td></td><td>Tax collected must be deposited within one week from the end of month of tax collection</td><td colspan="3">Applicable</td></tr>
<tr><td>5.</td><td colspan="4">Due dates for filing of TDS Returns</td></tr>
<tr><td>a.</td><td>TDS Quarterly Statement for quarter ended June</td><td colspan="3">31st July</td></tr>
<tr><td>b.</td><td>TDS Quarterly Statement for quarter ended September</td><td colspan="3">31st October</td></tr>
<tr><td>c.</td><td>TDS Quarterly Statement for quarter ended December</td><td colspan="3">31st January</td></tr>
<tr><td>d.</td><td>TDS Quarterly Statement for quarter ended March</td><td colspan="3">31st May</td></tr>
<tr><td>6.</td><td colspan="4">Due dates for issue of Form 16 (for Salaries) / Form 16A (for other than Salaries) and Form 27D (For TCS) (Note 4)</td></tr>
<tr><td>a.</td><td>Issue of Form 16 annually</td><td colspan="3">15th August</td></tr>
<tr><td>b.</td><td>Issue of Form 16A / 27D for quarter ended June</td><td colspan="3">15th November</td></tr>
<tr><td>c.</td><td>Issue of Form 16A / 27D</td><td colspan="3"></td></tr>
</table>

Sr. No.	Nature of Compliances	Person		
		Company	Partnership Firm / LLP	Individual and HUF
	for quarter ended September			
d.	Issue of Form 16A / 27D for quarter ended December	15th June		
e.	Issue of Form 16A / 27D for quarter ended March	30 May		

Notes:

1. *In case of working partner of a partnership firm, whose accounts are required to be audited under section 44AB of the IT Act, the date of filing of ROI is 30 September.*
2. *The threshold limit for presumptive taxation for business remains unchanged at INR 2,00,00,00, while presumptive taxation for profession where gross receipts does not exceeds INR 50,00,000 is at the rate 50% of gross receipts (excluding LLP). Consequently, threshold limit is increased u/s 44AB for person having total turnover in case of business is INR 2,00,00,000 and gross receipts from profession is INR 50,00,000.*
3. *Advance tax payment for income-tax is applicable to every person where the amount of income-tax payable is INR 10,000 or more.*
4. *It is mandatory for Companies and Banks to issue Form 16A, which is to be downloaded from the NSDL website (www.tin-nsdl.com).*
5. *Every person, being a non-resident having Liaison Office in India shall, in respect of its activities in a financial year, file a statement in Form No. 49C within 60 days from the end of the financial year i.e. 30 May to the Assessing Officer.*
6. *The return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.*

ABBREVIATIONS

ALP	Arm's Length Price
AMT	Alternate Minimum Tax
AOP	Association of Persons
APA	Advance Pricing Agreement
ARE	Alternate Reporting Entity
AY	Assessment Year
BCD	Basic Customs Duty
BEPS	Base Erosion Profit Shifting
BOI	Body of Individuals
CbCR	Country by Country Reporting
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise and Custom
CIT	Commissioner of Income Tax
CSR	Corporate Social Responsibility
CVD	Additional Duty of Customs levied under section 3(1) of the Customs Tariff Act, 1975
DAPE	Direct Agent Permanent Establishment
DDT	Dividend Distribution Tax
DTA	Domestic Tariff Area
EC	Education Cess
EOU	Export Oriented Unit

FMV	Fair Market Value
FPI	Foreign Portfolio Investor
FTS	Fees for technical services
GAAR	General Anti Avoidance Rules
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
INR	Indian Rupees
ITA	Information Technology Agreement
LTCG	Long Term Capital Gain
MAT	Minimum Alternate Tax
MLI	Multi-Lateral Instrument
NCCD	National Calamity Contingent Duty
OECD	Organisation of Economic Co-operative Development
PAN	Permanent Account Number
PCIT	Principal Commissioner of Income Tax
PE	Permanent Establishment
ROI	Return of Income
RSP	Retail Sale Price
SAD	Special Additional Duty of Customs levied under section 3(5) of the Customs Tariff Act, 1975
SCN	Show Cause Notice

SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone
SHEC	Secondary and Higher Education Cess
SPV	Special Purpose Vehicle

STT	Securities Transaction Tax
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TPO	Transfer Pricing Officer
VAT	Value Added Tax

Notes

Notes

Disclaimer

This publication does not constitute professional advice. The information in this publication has been obtained or derived from sources believed by us to be reliable but we do not represent that this information is accurate or complete. Any opinions or estimates contained in this publication represents our understanding at this time and are subject to change without notice.

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Union Budget 2018

For further information, please contact:

BHUTA SHAH & CO LLP

CHARTERED ACCOUNTANTS

Add.: 901, Regent Chambers, Nariman Point, Mumbai - 400 021.
E-mail: mail@bhutashah.com • **Website:** www.bhutashah.com
Tel.: +91 22 4343 9191 • **Fax.:** +91 22 2283 2727