



## Developing Strategies

India Budget 2018

Analysis of Tax Changes – Impact on Business



## Contents

<b>Foreword</b> .....	<b>2</b>
<b>Budget Highlights</b> .....	<b>3</b>
Policy and Regulatory Framework .....	3
Income Tax.....	3
Indirect Taxes .....	6
<b>Budget Impact</b> .....	<b>7</b>
Policy and Regulatory Framework .....	9
Income Tax.....	12
Changes in Tax Rates.....	12
Key proposals relating to Personal Taxation .....	12
Key proposals relating to Domestic Taxation.....	14
A. Capital Gains .....	14
B. Profits and Gains from Business or Profession .....	16
C. Income from other sources .....	19
D. Incentives and Deductions.....	20
Key Proposals relating to Transfer Pricing.....	26
Procedural Changes.....	27
Other changes.....	29
Indirect Taxes .....	31
Goods and Services Tax .....	31
Customs Duty.....	32
Excise Duty .....	36
Service Tax.....	37
Annexures.....	37
Annexure A: Rates of Income Tax.....	37
Annexure B: Important changes in the rates of Customs Duty .....	39

## FOREWORD

On 1<sup>st</sup> February 2018 Arun Jaitley, Honourable Finance Minister of India presented the Union Budget 2018. This being the last full budget of the present Government, the policies announced were marginally influenced by the upcoming elections in the year 2019 while at the same time, it maintained the principals of fiscal jurisprudence. In addition, the budget was still caught amongst the after effects of the rollout of the GST in July 2017 and the demonetisation campaign in December 2016.

Due to various reforms, India has improved its ease of doing business ranking significantly amongst the top 100 countries. Rationale for the upgrade of India by Moody's Investors Service in November 2017 was the wide-ranging programme of economic and institutional reforms of the Indian Government. The International Monetary Fund estimates India's **GDP growth rate** at 7.4 % in 2018 and 7.8 % in 2019.

The Union Budget 2018 concentrates especially on strengthening the agriculture, rural development, health, education, employment, MSME and infrastructure sectors.

- On the **regulatory side**, the Reserve Bank of India has issued guidelines to nudge Corporates access bond market. The Securities and Exchange Board of India (SEBI) will also consider mandating, beginning with large Corporates, to meet about one-fourth of their financing needs from the bond market.
- On the **direct tax side**, the Corporate Income Tax rate was reduced to 25 % for companies which have reported a turnover up to INR 2.5 billion in the financial year 2016-17. However, at the same time, the Government has introduced long term capital gains on securities transactions at the rate of 10 % generated from 31<sup>st</sup> January 2018 and exceeding INR 0.1 million while continuing with the Securities Transaction Tax. Consequently, the tax rate for distributed income by equity oriented mutual fund will also be 10 %.
- On the **indirect tax side**, no changes were made in the existing GST provisions. The customs duty on certain items has been increased in order to boost local manufacturing and protect the domestic industries. The Education Cess applicable on import of goods has been replaced by a Social Welfare Cess, at the rate of up to 10 % of the applicable Basic Customs Duty.

The Budget further continues with deepening the **demonetisation** campaign. Cash payments in excess of INR 10,000 by trusts and institutions will be disallowed and shall be subject to tax.

The budget combines the support of the agricultural sector with the improvement of environmental conditions and the expansion of renewable energies. Major investments in infrastructure projects are planned as 35000 km of roads at an investment of more than EUR 60 billion. Furthermore India is developing its aviation, railway and shipping infrastructure. Already initiated infrastructure projects like high-speed trains, local metro-train projects, the smart city projects, start-ups, electrification and Digital India are on track with suitable budgetary allocations.

On the following pages, we have summarised the changes assorted with the Finance Budget 2018.

## BUDGET HIGHLIGHTS

### Policy and Regulatory Framework

- Women's contribution to the Employees Provident Fund ('EPF') for the first 3 years of their employment will be reduced to 8 % against the existing rate of 12 % or 10 % with no change in employers' contribution to incentivise employment of more women and higher take-home wages.
- Guidelines being issued by Reserve Bank of India ('RBI') and Securities Exchange Board of India ('SEBI') in order to meet the financing needs of Corporates from the bond market.
- Necessary action will be taken in order to move regulators from bonds with 'AA' rating to 'A' grade ratings.
- Reform measures introduced with respect to stamp duty on financial securities transactions.
- Outward Direct Investment ('ODI') guidelines will be reviewed in order to bring out a coherent and integrated ODI policy.
- Separate policy for hybrid instruments to be prepared which would benefit startups and venture capital firms.
- Cryptocurrencies considered as illegal tender or coin and measures will be introduced to stop financing of illegitimate business activities funded through crypto-currencies.
- Launching of various schemes for health protection and urbanisation.

### Income Tax

#### Changes in Tax Rates

##### For Individuals

- Income tax slabs and corresponding tax rates for individuals remain unchanged. Surcharge also remains unchanged.
- Existing Education, Secondary and Higher Education Cess of 3 % substituted with 4 % Health and Education Cess.

##### For Corporates

- Concessional Tax rate of 25 % extended to domestic companies whose total turnover or gross receipts in the previous year 2016-17 does not exceed INR 2,5 billion; erstwhile threshold for the concessional rate was INR 500 million total turnover or gross receipts.

- Tax rates for all other corporates and foreign companies (including permanent establishments of non-resident entities in India) remain unchanged.
- Rates of Surcharge remain unchanged for domestic and foreign companies.
- Existing Education, Secondary and Higher Education Cess of 3 % substituted with 4 % Health and Education Cess.
- Rates for MAT and DDT remain unchanged.
- Dividend Distribution Tax @ 30 % levied on 'Deemed Dividend' arising from the payment of loan and advances by closely held companies, instead of erstwhile mechanism of subjecting them to tax in the hands of recipient.
- Additional levy of 10 % of income tax on income distributed by equity oriented mutual funds to unit holders.

## Domestic Tax Provisions

### For Individuals

- Standard deduction up to INR 40,000 on salary income with simultaneous withdrawal of exemption for transport allowance and reimbursement of medical expenses; resulting in a Net gain of INR 5,800 in tax free salary for individuals already claiming the exemption on account of transport allowance and medical reimbursement.
- Miscellaneous reliefs to senior citizens in the form of deduction on account of interest on deposits, preventive medical expenditure and medical treatment of specified diseases enhanced.
- Extension of benefit of tax-free withdrawal from National Pension System Trust (NPS) to non-employee subscribers.

### For Corporates

- Re-introduction of long-term capital gain tax at 10 % exceeding INR 0.1 million on transfer of equity shares or unit of equity oriented fund or business trusts, on which Security Transaction Tax ('STT') paid; gains accruing till 31<sup>st</sup> January 2018 to be grandfathered.
- Relaxation of deemed stamp duty implications in case of transfer of immovable property; no adjustments in case where variation between stamp duty value and sale consideration not more than 5 % of the sale consideration.
- Compensation receipts in connection with termination or modification of terms and conditions of any contract (business/ employment) taxable as Business Income or Income from other sources (for salaried tax payers).

- Several provisions of notified Income Computation and Disclosure Standards ('ICDS') rationalised in view of the reservations expressed by the recent decision of the Honourable High Court of Delhi.
- Reliefs to companies seeking insolvency resolution; aggregate amount of unabsorbed depreciation and brought forward losses allowed as an adjustment for Minimum Alternate Tax ('MAT'), relaxation of stipulation of continuity of 51 % voting power for set off of losses.
- Scope of 'accumulated profits' for the purposes of deemed dividend widened in case of amalgamated companies; such 'accumulated profits' shall be increased by the accumulated profits of the amalgamating company, whether capitalised or not, on the date of amalgamation.
- Transaction of transfer of property and money between wholly owned subsidiary and holding company excluded from the purview of deemed taxation of Income from other sources.
- Profit or gains arising from conversion of inventory into capital asset to be taxed as business income.
- New scheme of making assessments to eliminate physical interactions between the Income tax authorities and the taxpayers proposed.

### International Tax Provisions

- Scope of 'Business Connection' widened to include persons acting on behalf of the non-resident, habitually playing 'principal role leading to conclusion of contracts' in place of the existing 'habitually concludes contracts', scope widened to align with the expanded Permanent Establishment ('PE') definition under Multi-Lateral Instrument signed by India.
- Concept of 'significant economic presence' in India introduced within the purview of 'Business Connection'; 'Significant economic presence' defined to mean any (i) transaction including provision of download of data or software in India exceeding the prescribed threshold, or (ii) systematic and continuous soliciting business activities through digital means.
- MAT provisions clarified to not be applicable to specified Foreign Companies covered under specified presumptive taxation scheme.
- Long term capital gains on sale of equity shares or units in equity oriented fund in the hands of Foreign Institutional Investors also brought under the tax ambit.
- Measures to promote International Financial Services Centre; transfer of certain assets a non-resident on a recognised stock exchange located in any IFSC to be tax neutral; concessional rate of 9 % of Alternate Minimum Tax extended to non-corporate taxpayers located in IFSC.

## Transfer Pricing Provisions

- To align the Country-by-Country Reporting ('CbCR') framework with globally accepted norms under Base Erosion and Profit Shifting ('BEPS') project, certain retrospective clarifying amendments are proposed; further time lines for submission of CbCR are also rationalised.

## Indirect Taxes

- There were expectations from the trade and industry that the Government would take several steps to align the Goods and Services Tax ('GST') provisions after issues emerged during the implementation phase. In view of the fact that the changes related to GST laws and rates can only be carried out with the approval of the GST Council, no major changes were made in the CGST Act, 2017 and IGST Act, 2017.
- A new levy called '**Social Welfare Cess**' ('SWC') has been introduced on imports of goods in India effective 2<sup>nd</sup> February 2018. SWC is to be computed at rate of 10 % for majority of goods and 3 % for certain specified goods on the amount of Basic Customs Duty ('BCD'). Consequently, the existing levies of Education cess and Secondary and Higher Education Cess have been discontinued.
- Applicable BCD on import of various goods has been increased. These goods primarily belong to the automotive, electronics and FMCG sectors.
- The scope of verification of self-assessment has been expanded to cover bill of entry and shipping bill filed by the importers and exporters in addition to self-assessment. Further, a risk-based selection of self-assessment has been prescribed.
- A procedure of pre-consultation between the revenue authorities and the importer has been introduced in cases not involving fraud, collusion or mis-statement before issuance of demand notice.
- As per the amended provisions, the adjudication of demand notices by the Customs authorities needs to be completed with a period of 6 months (no fraud case) and 1 year (fraud case) which is extendable by a similar period by a senior officer. Proceedings deemed to be concluded in case adjudication is not completed within above prescribed timelines.
- Central Government authorised to enter into reciprocal arrangement for exchange of information with any other country trade facilitation, combating and investigation of offenses under the provisions of the Customs Act or the laws of the corresponding country.
- Section 11 amended to provide that any prohibition/ restriction on imports/ exports under any other Act shall not be effective unless the same is notified under the Customs Act.

- Concept of electronic cash ledger has been introduced to enable importers to make an advance deposit which can be used for payment of duties, taxes, fees, interest and penalty.
- Valuation mechanism for supply of warehoused goods prescribed.
- Audit provisions have been incorporated in the Customs Act, to provide for audit of imported or exported goods as per procedures to be prescribed.

## BUDGET IMPACT

From the perspective of direct and indirect tax, the Union Budget 2018 proposals are largely non-populist and no major tax policy changes have been announced on the personal and corporate tax front, with the only exception being the tax on capital gains on sale of listed equity shares or units of mutual funds. The existing education cess has been replaced by 4 % Health and Education cess. The finance minister has however kept his promise to reduce the tax rate to 25 % for companies with Turnover criteria which will benefit almost 99 % of the total companies registered in India.

On the personal tax front, no changes are proposed in slab rates. As announced by the Finance Minister in his speech, senior citizens have been granted additional benefits with respect to Health Insurance, Higher interest Income exemption etc. For salaries taxpayers, tax impact of relief on account of standard deduction introduced, coupled with withdrawal of the existing transport allowance and medical reimbursement is only negligible. However, this will have an impact of reduction in paper work and compliance.

Amidst wide speculation, regime of capital gains tax on long term equity shares and units in equity oriented fund is proposed to be overhauled with the re-introduction of tax at 10 % on capital gains after more than a decade. Grandfathering of capital gains prior to 1<sup>st</sup> January 2018 is considered to be welcome move. An additional income tax at 10 % is also proposed to be levied on income distributions by equity oriented mutual funds. The existing Securities Transaction Tax will continue to be applicable. These changes are likely to cause a furore amongst the investor community.

On the Corporate Tax front, in a move to promote MSMEs, the threshold of the concessional tax rate of 25 % has been extended to companies with a total turnover or gross receipts or gross receipts in the previous year 2016-17 does not exceed INR 2.5 billion (from the erstwhile threshold of INR 500 million). It is expected to benefit the entire class of MSMEs which accounts for almost 99 % of companies in this sector. Few incentives have granted for companies seeking insolvency resolution in the form of relaxation of Sec 79 relating to loss carry forward and Minimum Alternate Tax (MAT) calculation. Further relaxations are provided for start-up companies including widening the definition of 'eligible Business' which will enable more companies to take the benefit of this section.



To remove confusion and bottleneck for effective implementation of Income Computation and Disclosure Standards ('ICDS'), the budget has amended as well introduced new sections retrospectively to overrule the recent decision of the Honourable Delhi HC including many earlier decisions of the Honourable Supreme Court.

In a move to transform the age-old assessment procedures in the country, E-assessment is proposed to be rolled out across all Income tax offices in the country which will have the favourable impact of eliminating person to person contact and introduce efficiency and transparency in the system.

From the International tax perspective, in a measure to tackle the 'digital economy', the scope of 'business connection' has been widened to bring within the Indian tax net, transactions of download of software, soliciting business through digital means etc. by non-residents. For treaty countries, this is not likely to have any significant impact, until the existing treaties are amended. The scope of Business Connection on account of dependent agents has also been widened to bring it in line with the definition in the Multi-Lateral Instrument (MLI) signed by India and several other countries on 8<sup>th</sup> June 2017, which when notified, will have the impact of modifying all Indian treaties.

The existing provisions relating to Country-by-Country Reporting ('CbCR') framework, introduced by the Finance Act 2017 are also being rationalised. On one hand, these amendments are being introduced to improving the effectiveness of the CbCR framework and provide more clarity on certain issues, while on the other hand impose onerous compliance requirements by constituent entity resident in India, with the parent entity having presence in countries which have no agreement for exchange of CbCR with India.

On the Indirect Tax side, while there were expectations from the trade and industry that that the Government would take several steps to align the GST provisions after issues emerged during the implementation phase, no changes were made in the GST laws. The Government may decide the fate of such expectations and recommendations in the next GST Council meeting.

From the Customs perspective, the Government has reversed the trend of reduction of Customs duty by increased the Customs duty rates on goods primarily belong to the automotive, electronics and FMCG sectors. This has been done with a clear intension of boosting domestic manufacturing and protecting the domestic industries.

The Government has also introduced Social Welfare Cess at the rate of up to 10 % on import of goods in India and has discontinued the existing levies of Education cess and Secondary and Higher Education Cess. This would lead to a marginal increase in the overall costs of imported goods in India.

Additionally, several amendments have been made in the Customs Act in order to streamline the assessment and adjudication procedures and additional trade facilitation measures have been introduced.

## Policy and Regulatory Framework

### Proposed Labour Law reforms

- The Government has proposed to contribute 12 % of the wages of the new employees towards Employee Provident Fund ('EPF') for all the sectors for the next 3 years. This is aimed at incentivising the employers towards job creation.
- The Employees Provident Fund and Miscellaneous Provisions Act, 1952 will be amended to reduce women employees' contribution to 8 % for first three years of their employment against existing rate of 12 % or 10 % with no change in employers' contribution.
- Companies would now have to consider these rates and changes for their employees and adhere to the same.

### Proposed changes in Prevention of Money Laundering Act, 2002

- The Finance Bill 2018 proposes to add section 447 of the Companies Act, 2013 which is concerned with punishment for fraud, in the list of Scheduled offences under the Prevention of Money Laundering Act, 2002 ('PMLA') by way of amendment. This would mean that any offence of fraud committed by any person under section 447 Companies Act, 2013 shall also attract PMLA. The term 'any person' can include Company's Directors, Company Secretary, Key Managerial Person ('KMP'), or any person who commits fraud.
- The liabilities on most directors, KMP and Company Secretary are already very high and with such amendments and additions of penal provisions, the Government is ensuring that all companies and persons responsible for running such companies adhere by strict codes of clean conduct and compliances.

### Proposed changes in Indian Stamp Act

- The Finance Minister has also promised to take reform measures with respect to stamp duty on financial securities transactions in consultation with the State Governments. This may soon lead to amendments in the Indian Stamp Act.
- Companies would have to review the new stamp duty rates before entering into any financial securities transactions to recalculate their costs and impact of the new stamp duty rates.

### Encouragement for Bond Market

- Reserve Bank of India has issued guidelines to nudge Corporates to access bond market. Now SEBI will also consider mandating large Corporates to meet about one-fourth of their financing needs from the bond market.
- Corporate bonds rated 'BBB' or equivalents are considered as investment grade. In India, most regulators permit bonds with only the 'AA' rating as eligible for investment. The Government will now push for reforms to move from 'AA' to 'A' grade rating for bonds to encourage investment in bond market.

### Amendments to Securities Laws

- Securities and Exchange Board of India Act, 1992 ('SEBI Act'), Securities Contracts (Regulation) Act 1956 ('SCRA') and Depositories Act, 1996, are proposed to be amended to streamline adjudication procedures and to provide for penalties for certain infractions. A Whole Time Member ('WTM') as well as an Adjudicating Officer of SEBI, both will be entitled to impose penalties in such cases. Under securities laws, almost a decade long jurisprudence was available through various rulings of High Courts, Supreme Court and Securities Appellate Tribunal ('SAT') that a WTM usually passes remedial and preventive directions (such as debarment from securities markets, prohibition from accessing capital market, disgorgement etc.), while an Adjudicating Officer imposes a monetary penalty. Hitherto, a WTM could pass penal orders by cancelling or suspending the license of a registered intermediary. Currently, the adjudicating officer has the authority to impose penalties for contravening any provisions under the Act. However, the Finance Bill, 2018 seeks to amend the SEBI Act to extend this power to SEBI so that apart from the adjudicating officer, SEBI may also hold inquiries in the prescribed manner and may levy penalty for violation of various provisions under the SEBI Act. However, the Finance Bill failed to make provisions to seek accountability of SEBI by fixing a statutory timeline for finishing an investigation or for passing an order.
- For the first time, provisions are being introduced to penalise the failure of a stock exchange or a clearing corporation to conduct its business in a manner which is not in accordance with the rules and regulations made by SEBI.
- Further, provisions have been introduced in the SEBI Act for imposing penalty on an Investment Advisor or a Research Analyst for INR 0.1 million for each day of failure extendable to INR 10 million.
- Currently, SEBI provides for penalty on failure to furnish the required information under the SEBI Act. It is proposed to amend the same to extend this monetary penalty on any person who furnishes or files false, incorrect or incomplete information, returns, reports, books or other documents within the time prescribed in the regulations. The monetary penalty is minimum INR 0.1 million, which may extend to INR 0.1 million for each day during such failure continues, subject to a maximum of INR 10 million.

- In recent years, while SEBI had framed Regulations for Alternate Investment Funds ('AIFs'), Real Estate Investment Trust ('REITs') and Infrastructure Investment Trusts ('INVITs'), there was no penal provision in SCRA against them or their managers for violating listing and delisting conditions. Finance Bill proposes to plug this loophole in SCRA. Similar provisions relating to AIFs, INVITs, REITs have been introduced in SEBI Act. The penalty proposed in these cases is INR 0.1 million for each day of failure extendable to higher of INR 10 million or 3 times the profit made. This is a welcome measure to seek accountability on certain malpractices.
- All settlement amounts, excluding the disgorgement amount and legal costs realised under SCRA will be credited to Consolidated Fund of India.
- The Finance Bill provisions also introduce continuance of SEBI Recovery of Penalty Proceedings against a legal representative for sums due from securities laws defaulter even when the defaulter dies. While a general rule is that in case of a fraud, penalty is considered to be personal in nature and the proceedings get abated on the death of an accused, this amendment will mean SEBI proceedings will continue to recover penalties from an estate of a person. For an already clogged litigation system of SEBI, seeking this amendment is perplexing.

### **Amendments to the Outward Direct Investment policy**

- The Government announced that there will be significant changes towards a coherent and integrated Outward Direct Investment ('ODI') policy due to the growth of ODI from India in the past years. The existing guidelines will be revamped in order to bring a better and more cohesive ODI policy in the light of such high rate of ODI.

### **Urbanisation Initiatives**

- 99 cities have been selected under the Smart City programme with a significant outlay. This is expected to help these cities expand and reduce the burden on Tier I cities like Mumbai, Delhi, Chennai and Kolkatta and help investment, development and expansion of the other cities under the programme.
- This would also mean that new cities will be opened up for industrial expansion.

### **Growth of MSME and Fintech sector**

- A group in the Ministry of Finance is examining the policy and institutional development measures needed for creating right environment for Fintech companies to grow in India.
- Use of Fintech in financing space will help growth of MSMEs. Further, growth of fintech sector in itself would attract foreign investment in the said sector.

## Income Tax

### Changes in Tax Rates

#### Personal Tax Rates

- Income tax slabs and corresponding tax rates for individuals remain unchanged. Surcharge also remains unchanged.
- Existing Education, Secondary and Higher Education Cess of 3 % substituted with 4 % Health and Education Cess.
- Imposition of Tax at 10 % on capital gains arising from transfer of equity shares or units of equity oriented fund on which Securities Transaction Tax ('STT') paid.

#### Corporate Tax Rates

- **Concessional Tax rate of 25 % extended to domestic companies whose total turnover or gross receipts in the previous year 2016-17 does not exceed INR 2,5 billion; erstwhile threshold for the concessional rate was INR 500 million total turnover or gross receipts.**
- Tax rates for all other corporates and foreign companies (including permanent establishments of non-resident entities in India) remain unchanged.
- Rates of Surcharge remain unchanged for domestic and foreign companies.
- Existing Education, Secondary and Higher Education Cess of 3 % substituted with 4 % Health and Education Cess.
- Rates for MAT and DDT remain unchanged.
- Imposition of Tax at 10 % on capital gains arising from transfer of equity shares or units of equity oriented fund on which STT paid.
- Dividend Distribution Tax at 30 % levied on 'Deemed Dividend' arising from the payment of loan and advances by closely held companies, instead of erstwhile mechanism of subjecting them to tax in the hands of recipient.
- Additional levy of 10 % of income tax on income distributed by equity oriented mutual funds to unit holders.

### Key proposals relating to Personal Taxation

**Standard deduction on salary income and withdrawal of exemption for transport allowance and reimbursement of medical expenses**

- It is proposed that a standard deduction of up to INR 40,000 be allowed while computing income under the head 'Salaries'.
- As a corollary, presently available deductions in respect of Transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses of up to INR 19,200 and INR 15,000 per annum respectively are proposed to be withdrawn.
- This amendment will take effect from 1st April, 2019 apply in relation to Assessment Year 2019-20 and subsequent assessment years.

#### Compensation in connection with employment is now taxable

- It is proposed to amend existing provisions to tax any compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to employment as income from other sources in the hands of the recipient.
- These amendments will apply in relation to Assessment Year 2019-20 and subsequent years.

#### Miscellaneous reliefs to senior citizens

- Following deduction limits have been enhanced for senior citizens

Nature of deduction	Present limit of deduction	Proposed enhanced limit
Interest on savings account	INR 10,000 [Section 80 TTA]	<ul style="list-style-type: none"> <li>▪ INR 50,000 interest income from deposits held by senior citizens [New Section 80 TTB]</li> <li>▪ No deduction under existing Section 80 TTA of INR 10,000 will be available in cases where deduction under section 80 TTB availed</li> <li>▪ Consequential amendments for raising the threshold for deduction of tax at source (TDS) on interest income for senior citizens, from existing INR 10,000 to INR 50,000.</li> </ul>
Medical Treatment of Specified Diseases	INR 80,000 Very senior citizen  INR 60,000 Senior citizens  [section 80 DDB]	<ul style="list-style-type: none"> <li>▪ INR 100,000 for both senior citizens and very senior citizens.</li> </ul>
Annual Health Insurance Premium or Preventive Health Check-up or Medical Treatment	INR 30,000 [section 80 D]	<ul style="list-style-type: none"> <li>▪ INR 50,000</li> <li>▪ Revised deduction limit available only to senior citizens and very senior citizens</li> </ul>

- The above amendments will apply in relation to the Assessment Year 2019-20 and subsequent assessment years.

#### **Extension of benefit of tax-free withdrawal from National Pension System Trust (NPS) to non-employee subscribers**

- Under the existing provisions, an employee contributing to the NPS is allowed an exemption in respect of 40 % of the total amount payable to him on closure of his account or on his opting out of NPS. This exemption is not available to non-employee subscribers.
- In order to provide parity between an individual who is an employee and an individual who is self-employed, it is proposed to extend the benefit of exemption to all categories of subscribers to the NPS.
- This amendment will apply in relation to Assessment Year 2019-20 and subsequent assessment years.

### **Key proposals relating to Domestic Taxation**

#### **A. Capital Gains**

##### **Re-introduction of long-term capital gain tax on sale of equity shares**

- As per the existing provisions, any long-term capital gain arising from transfer of an equity share or a unit of equity oriented fund or a unit of business trusts, on which Security Transaction Tax ('STT') has been paid, is exempt from Income-tax.
- It is proposed to insert a new section to tax such long-term capital gains exceeding INR 0.1 million at a concessional rate of 10 %. Also, it is proposed that, for computing capital gains, indexation as well as foreign exchange fluctuation benefit will not be available.
- Further, it is also proposed that the concessional rate of 10 % will be applicable, only if:
  - › In a case of equity share in a company, STT has been paid on both acquisition and transfer of such capital asset; and
  - › In a case of a unit of an equity oriented fund or a unit of a business trust, STT has been paid on transfer of such capital asset
- However, the above condition pertaining to payment of STT at the time of transfer will not be applicable, if the transfer is undertaken on a recognised stock exchange located in International Financial Services Centre (IFSC) and the consideration of such transfer is receivable in foreign currency. The proposed new section further empowers the Central Government to specify by notification the nature of acquisitions in respect of which the requirement of payment of STT shall not apply in case of equity shares in a company.

- The benefit of deduction under chapter VIA shall be allowed from the gross total income as reduced by such capital gains. Similarly, the rebate shall be allowed from the income tax on the total income as reduced by tax payable on such capital gains.

#### Grandfathering of gains prior to 31<sup>st</sup> January 2018

- It is proposed that all long-term capital gains accrued till 31<sup>st</sup> January 2018 will be grandfathered, which implies long-term capital gains that would have arisen before 31<sup>st</sup> January 2018 are proposed to be exempted.
- Further, the cost of acquisition of a such assets acquired by the taxpayer before the 1<sup>st</sup> February 2018, shall be deemed to be the higher of following:
  - › The actual cost of acquisition of such asset; or
  - › Fair market value (FMV) or full value of sales consideration accruing as a result of transfer, whichever is lower.
- Fair market value shall mean its highest price quoted on the stock exchange on 31<sup>st</sup> January 2018. However, if there is no trading in such shares on such exchange on 31<sup>st</sup> January 2018, the highest price of such asset on such exchange on a date immediately preceding 31<sup>st</sup> January 2018 will be considered as FMV. While in case of units which are not listed on recognised stock exchange, the net asset value of such units as on 31<sup>st</sup> January 2018 shall be deemed to be its FMV.
- Corresponding amendment is also proposed to bring long term capital gains exceeding one lakh rupees in the hands of Foreign Institutional Investors under the tax ambit at 10 %.
- The proposed amendment will take effect from 1<sup>st</sup> April, 2019 and, accordingly, will apply from AY 2019-20 onwards.

#### **Relaxation of deemed stamp duty implications in case of transfer of immovable property**

- Under the existing provisions of the Act, while computing taxable income from capital gains (section 50C), business profits (section 43CA) and other sources (section 56) arising out of transactions in immovable property, higher of sales consideration and stamp duty value is required to be adopted.
- Consequently, if stamp duty value of immovable property exceeds sale consideration, then the difference between stamp duty value and sales consideration is taxed as income in the hands of purchaser and seller.
- It has been pointed out that, this variation could occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location. Therefore, in order to minimise hardship in case of genuine transactions in the real estate sector, it is proposed that no adjustments shall be made in a case where the variation



between stamp duty value and the sale consideration is not more than 5 % of the sale consideration.

- This proposed amendment will apply with effect from assessment year 2019-20 and subsequent years.

## B. Profits and Gains from Business or Profession

### **Amendments in relation to notified Income Computation and Disclosure Standards ('ICDS')**

- Under section 145(2) of the Income Tax Act, the Central Government has notified ICDS effective from 1<sup>st</sup> April 2017 for the purposes of computation of income chargeable to income-tax under the head 'Profits and gains of business or profession' or 'Income from other sources'.
- In a recent decision of the Honourable High Court of Delhi, legitimacy of the notified ICDS was questioned. Accordingly, the following amendments are proposed to bring certainty to this issue:
  - › Deduction in respect of marked to market loss or other expected loss shall be allowed under section 36 of the Act, as computed in the manner provided in ICDS
  - › Subject to the provisions of section 43A of the Act, any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, which shall be computed in the manner provided in ICDS.
  - › In case of construction contract or service contract:
    - › Profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method except for certain service contracts.
    - › Contract revenue shall include retention money.
    - › Contract cost shall not be reduced by incidental interest, dividend and capital gains.
  - › Section 145A of the Act shall be amended to provide that:
    - › Valuation of inventory shall be made at lower of actual cost or NRV, computed in the manner provided in the notified ICDS.
    - › Valuation of purchase and sale of goods or services and of inventory shall adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the taxpayer to bring the goods or services to the place of its location and condition as on the date of valuation.
    - › Inventory, being unlisted securities, or listed but not quoted regularly on a recognised stock exchange, shall be valued at actual cost initially recognised in the manner provided in the ICDS.
    - › Inventory, being listed securities, shall be valued at lower of actual cost or NRV in the manner provided in the notified ICDS and for this purpose the comparison of actual cost and NRV shall be done category wise.

- › New section 145B shall be inserted in the Act to provide that:
  - › Interest received by a taxpayer on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received;
  - › The claim for escalation of price in a contract or export incentives shall be deemed to be the income of the tax year in which reasonable certainty of its realisation is achieved;
  - › Assistance in form of subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement from the government shall be deemed to be the income of the tax year in which it is received, if not charged to income tax for any earlier tax year.
- These amendments will take effect retrospectively from 1<sup>st</sup> April, 2017 and, accordingly, will apply from AY 2017-18 onwards.

#### **Compensation in connection to business is now taxable**

- Under the existing provisions of the Act, a large segment of compensation receipts in connection with business are outside the purview of taxation, leading to base erosion and revenue loss. Therefore, in order to cover such compensation under tax ambit, it is proposed to tax compensation receipts in connection with business.
- It is therefore proposed to amend existing provisions to tax any compensation received or receivable in connection with the termination or the modification of the terms and conditions of any contract relating to its business as business income.
- These amendments will apply in relation to Assessment Year 2019-20 and subsequent years.

#### **Streamlining of presumptive taxation of income in case of goods carriage**

- Under the existing provisions, any person engaged in the business of plying, hiring or leasing of goods carriage and having not more than 10 goods carriages, has an option to avail the presumptive taxation scheme. In this case, taxable income is deemed to be INR 7,500 per goods carriage per month.
- The above provision was introduced with the intention of giving benefit to small transporters in order to reduce their compliance burden. However, it was observed that big transporters owning large capacity goods carriages were also availing benefit under this provision, since the only condition to avail this benefit was to own not more than 10 goods carriages.
- Therefore, it is proposed that, in the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would be deemed to be an amount equal to INR 1,000 per ton of gross vehicle weight or unladen weight per month for each goods vehicle.
- This amendment will apply in relation to Assessment Year 2019-20 and subsequent years.

### **Relief under Minimum Alternate Tax (MAT) for the companies applied for insolvency**

- As per existing provisions of 115JB of the Act, lower of brought forward loss and unabsorbed depreciation, is allowed as deduction for computing book profit for payment of MAT. Consequently, where the loss brought forward or unabsorbed depreciation is Nil, no deduction is allowed. This non-deduction becomes a barrier for rehabilitating companies seeking insolvency resolution.
- In order to address this issue, it is proposed that, company whose application for corporate insolvency resolution under the Insolvency and Bankruptcy Code, 2016 has been admitted by adjudicating authority, shall be allowed to claim deduction of both unabsorbed depreciation and brought forward losses (i.e. aggregate amount of unabsorbed depreciation and brought forward losses) for computing book profits for the purpose of MAT.
- This proposed amendment will apply with effect from assessment year 2018-19.

### **Benefit of carry forward and set off of losses for companies applied for Insolvency**

- As per existing provisions of the Act, losses of a closely held company are allowed to be carried forward and set off only if there is continuity in the beneficial ownership of not less than 51 % of the voting power on the last day of the year in which losses were incurred.
- The company seeking insolvency resolution under Insolvency and Bankruptcy Code, 2016, generally involves change in the beneficial owners of shares beyond the permissible limit which acts as a hurdle for restructuring and rehabilitation of such companies.
- In order to address this problem, it is proposed that the rigors of the existing provisions shall be relaxed in case of those companies whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.
- It is also proposed to provide that during the resolution process under the Insolvency and Bankruptcy Code, 2016, the return shall be verified by an insolvency professional appointed by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.
- This proposed amendment will apply with effect from assessment year 2018-19.

### **Rationalisation of provision relating to conversion of stock-in-trade into Capital Asset**

- The existing provisions provide that capital gains arising from a conversion of capital asset into stock-in-trade will be chargeable to tax. However, there is no corollary provision for taxation of capital gains from conversion of stock-in-trade into capital asset.
- In order to provide symmetrical treatment and discourage the practice of deferring the tax payment by converting the inventory into capital asset, following amendments have been proposed:

- › Any profit or gains arising from conversion of inventory into capital asset shall be charged to tax as business income. The FMV of the inventory as on the date of conversion shall be deemed to be the full value of the consideration of such inventory for the purpose of computing the business profits.
  - › The FMV as on the date of conversion shall be the cost of acquisition for the purposes of computation of capital gains arising from transfer of such converted capital assets.
  - › Period of holding on such converted capital asset shall be reckoned from the date of conversion for the purposes of computation of capital gains in the future.
- This proposed amendment will apply with effect from assessment year 2019-20.

### C. Income from other sources

#### **Widening of scope of 'Accumulated profits' for the purposes of Dividend**

- As per existing provisions of the Act, any distribution of accumulated profits to the shareholders by a company by way of specified modes is subject to Dividend Distribution Tax. 'Accumulated profits' has been defined to include all profits of the company up to the date of distribution or payment or liquidation.
- It is observed that, certain companies with large accumulated profits have been taking recourse to amalgamation route in order to reduce accumulated profits, so as to escape the liability of paying tax on distributed profits on such accumulated profits.
- With a view to prevent such abusive arrangements, it is proposed to widen the scope of 'accumulated profits' in case of amalgamation of companies. Accordingly, it is proposed that, accumulated profits of an amalgamated company shall be increased by the accumulated profits of the amalgamating company, whether capitalised or not, on the date of amalgamation.
- This amendment will apply in relation to Assessment Year 2018-19 and subsequent years.

#### **Application of Dividend Distribution Tax ('DDT') to Deemed Dividend**

- Under the existing provisions of the Act, a domestic company is subject to dividend distribution tax on dividends. However, deemed dividend arising from the payment of loan and advances by closely held companies were outside the ambit of DDT, since the same was taxable in the hands of the recipient at the applicable marginal rate.
- The taxability of such deemed dividend in the hands of recipient has posed serious problem of collection of the tax liability and has also been the subject matter of extensive litigation.
- With the intention of bringing clarity and certainty in the taxation of deemed dividends and to prevent prevent camouflaging dividend in the form of loans and advances, it is proposed to bring such deemed dividend under the ambit of DDT, wherein such

dividends shall be subject to DDT in the hands of the Company at the rate of 30 % (without grossing up).

- This amendment will apply to deemed dividend transactions undertaken as specified on or after 1<sup>st</sup> April, 2018 and will apply in relation to Assessment Year 2018-19 and subsequent years.

#### **Dividend distribution tax on dividend pay-outs to unit holders in an equity oriented fund**

- As per the existing provisions, income distributed by the specified company or a Mutual Fund (money market or liquid fund) to its unit holders is chargeable to tax at specified rates. However, income distributed to a unit holder of equity oriented funds is not chargeable to tax under the said section.
- With a view to providing a level playing field between growth oriented funds and dividend paying funds, it is proposed to charge 10 % of additional income tax on income distributed to its unit holders by equity oriented mutual funds
- These amendments will apply in relation to Assessment Year 2019-20 and subsequent years.

#### **Rationalisation of tax neutral transfers between subsidiary and holding company**

- The existing provisions provides for tax neutral transfers of capital assets or money between wholly owned subsidiary and its holding company. However, these tax neutral transfers are not specifically excluded from the anti-abuse provisions and hence, are taxable as income from other sources in the hands of recipient.
- In order to further ease the transaction of money or property between a wholly owned subsidiary company and its holding company, it is proposed to amend the section 56 of the Act, so as to exclude such transfer from its scope.
- This proposed amendment will apply with effect from assessment year 2019-20.

### **D. Incentives and Deductions**

#### **Rationalisation of the provisions of section 54EC**

- The existing provisions of section 54EC of the Act exempts capital gain up to INR 5 million, if long term Capital gain is invested in the National Highways Authority of India or by the Rural Electrification Corporation Limited or any other bond notified by the Central Government in this behalf within a period of six months after the date of such transfer, subject to certain conditions. The existing provision the Act also provides lock in period of 3 years for Investments in these bonds.
- In order restrict scope of this exemption, it is proposed that exemption under section 54EC of the Act shall now be only applicable to capital gain arising from the transfer of immovable property (I.e. land or building or both) subject to prescribed conditions. Also,

lock in period for investment in the specified bonds has been proposed to increase to 5 years from 3 years.

This proposed amendment will apply with effect from assessment year 2019-20.

#### **Tax Incentives under Section 80P announced for Farm Producer Companies**

- The existing provisions provide for 100 % deduction in respect of profit of cooperative society which provides assistance to its members engaged in primary agricultural activities.
- In order to extend similar benefit to Farm Producer Companies, it proposed to provide 100 % deductions of profits for a period of 5 years to farm producer companies, having total turnover of INR 1 billion.
- For claiming this deduction, companies' gross total income should include income from:
  - › Marketing of agricultural produce grown by its members.
  - › Purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members.
  - › Processing of agricultural produce of its members.
- The benefit shall be available for a period of five years from the financial year 2018-19.
- This amendment will apply in relation to Assessment Year 2019-20 and subsequent years.

#### **Tax incentive under Sections 80IAC extended to promote start-ups**

- As per existing provisions of the Act, 100 % deductions in respect of profits are available to the start-up for 3 consecutive assessment years out of 7 years at the option of such start-up. The 100 % deduction with respect to profit is allowed, subject to the following conditions:
  - › It is incorporated on or after 1<sup>st</sup> April 2016 but before 1<sup>st</sup> April 2019.
  - › The total turnover of its business does not exceed INR 250 million from financial year 2016-17 to financial year 2018-19.
  - › It is engaged in the 'eligible business' which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.
- In order to improve the effectiveness of the scheme for promoting start-ups in India, it is proposed to make following changes in the taxation regime for the start-ups:
  - › The benefit has been extended and is now proposed to be available to start ups incorporated on or after the 1<sup>st</sup> April 2019 but before 1<sup>st</sup> April 2021.

- › The requirement of the turnover not exceeding INR 250 million would apply to 7 previous years commencing from the date of incorporation.
  - ›
  - › The definition of 'eligible business' has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a 'scalable business model with a high potential of employment generation or wealth creation'.
- This proposed amendment will apply with effect from assessment year 2018-19.

#### **Incentive for employment generation under Section 80JJA extended to footwear and leather industry**

- The existing provisions provide for a deduction of 30 % in addition to normal deduction of 100 % in respect of employee cost to an eligible tax payer for employing new employees for a minimum period of 240 days during the year.
- However, for taxpayer engaged in business of manufacturing apparel was relaxed to 150 days. Now, it is proposed to extend the concessional minimum employment period for 150 days to manufacturer of footwear and leather products.
- Further, it has been observed that, eligible tax payers are not able to avail the benefit of 30 % deductions, if an employee is employed for a period of less than 240 days or 150 days in the first year, but continues to remain employed for the minimum period in the subsequent financial year.
- In order to rationalise this deduction, it has been proposed to allow the benefit of 30 % deduction to the eligible tax payer in respect of an employee employed for less than the minimum period prescribed (i.e. 240 days or 150 days) during the first financial year but continues to remain in the employment for such minimum period in subsequent financial year.
- This proposed amendment will apply with effect from assessment year 2019-20.

#### **Rationalisation of provision of section 115BA relating to certain domestic companies**

- The existing provisions of section 115BA of the Act provides option to newly set up domestic company for getting taxed at the beneficial rate of 25 %, if it is engaged in business of manufacture or production of any article or thing and research in relation thereto, or distribution of such article or thing manufactured or produced by it.
- However, there are certain incomes which are subject to a scheduler tax at a rate which is lower or higher than 25 per cent. This had led to unintended hardship or unwarranted relief to such eligible taxpayers.
- Thus, a clarifying amendment is proposed under section 115BA to explain that, the beneficial rate of 25 % shall be only applicable to income from the business of manufacturing, production, research or distribution and accordingly, any income which are

at present taxed at a scheduler rate will continue to be so taxed at such scheduler rate. Accordingly, the concessional rate of 25 % is applicable to income from business of manufacturing or production and other income (if any) will be taxable at applicable rates.

- This proposed amendment will apply retrospectively with effect from assessment year 2017-18.

**Deductions in respect of certain incomes not to be allowed if return is filed after the due date**

- As per existing provisions, no deduction would be admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, unless the return of income by the taxpayer is furnished on or before the due date specified in this regard. This burden of filing of return on time is not cast on other assesses who are claiming deductions under other provisions.
- Therefore, to bring consistency with respect to such other similar income-based deduction, it is now proposed that the scope of the existing provisions shall be extended to all deductions which are covered under the heading ‘C.- Deductions in respect of certain incomes’ in Chapter VIA (i.e. deductions covered under sections 80H to 80T of the Act). Therefore, it is proposed that, no deduction would be allowed to a taxpayer under the provisions of 80H to 80T of the Act if income-tax return is not filled on or before the due date.
- It may be noted that this section does not cover deductions applicable to individuals such as sections 80C (specified investments), 80D (health insurance), 80DDB (medical treatment) etc.
- This proposed amendment will apply with effect from assessment year 2018-19.

Key Proposals relating to International Tax

**Scope of ‘Business Connection’ widened to align with the modified PE rule as per MLI**

- Under the existing provisions, ‘business connection’ includes any person acting on behalf of the non-resident, if such person is ‘habitually authorised to conclude contracts’ for the non-resident. Based on the recommendations of the Organisation for Economic Co-operation Development (OECD) under Base Erosion Profit Shifting (BEPS) - Action Plan 7, the scope of the Dependent Agent Permanent Establishment (DAPE) under treaties was expanded by the Multilateral Instrument (MLI) also signed by India on 7<sup>th</sup> June 2017. It was therefore necessary to the amend the Income Tax Act because once the MLI is notified to be in force, the provisions of the Income Tax Act will be beneficial as compared to the Indian treaties.
- To align the domestic tax law provisions for with the Indian treaties, it is proposed to amend the scope of ‘business connection’ to include any business activities carried through a person who, acting on behalf of the non-resident, habitually concludes contracts or



habitually plays the principal role leading to conclusion of contracts by the non-resident. It is further proposed that the contracts should be:

- › In the name of the non-resident; or
  - › For the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or
  - › For the provision of services by that non-resident.
- This amendment will take effect from 1<sup>st</sup> April 2019 and apply in relation to assessment year 2019-20 and subsequent assessment years.

**‘Business Connection’ to include ‘Significant Economic Presence’**

- The scope of existing provisions for taxing non-residents is narrow in scope since it essentially provides for physical presence based nexus rule for taxation of business income of non-residents in India. Under new and emerging business models, non-resident entities interact with customers in a different country without having physical presence, thereby resulting in avoidance of taxation in the source country.
- The OECD under its BEPS Action Plan 1 addressed the tax challenges in a digital economy where several options to tackle the direct tax challenges arising in digital businesses were discussed. One such option is a new nexus rule based on ‘significant economic presence’. As per the recommendations put forth, a non-resident enterprise would create a taxable presence in a country if it has a significant economic presence in that country on the basis of factors that have a purposeful and sustained interaction with the economy by the aid of technology and other automated tools.
- In line with the above recommendations, it is therefore proposed to clarify that ‘significant economic presence’ in India shall also constitute ‘business connection’. Further, ‘significant economic presence’ for this purpose is defined to 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 previous 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.

It is further proposed to provide that only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.

It is further proposed to provide that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.

It has been clarified that unless corresponding modifications to PE rules are made in Indian tax treaties, cross border business profits will continue to be taxed as per the existing treaty rules.

- This amendment will take effect from 1<sup>st</sup> April, 2019 and will, accordingly, apply in relation to assessment year 2019-20 and subsequent assessment years.

#### **MAT provisions not applicable to Foreign Companies covered under presumptive taxation**

- A clarifying amendment has been proposed under the provisions of MAT to provide that, MAT provisions shall not be applicable and shall be deemed never to have been applicable to a foreign company if its total income consists only profits and gains from the following sections and income has been offered to tax at the rates prescribed in the respective sections:
  - › Shipping business as specified in section 44B of the Act.
  - › Business of oil and mineral exploration as specified in section 44BB of the Act.
  - › Business of operation of Air-craft as specified in section 44BBA of the Act.
  - › Business of civil construction as specified section 44BBB of the Act.
- This proposed amendment will apply with effect from assessment year 2018-19.

#### **Measures to promote International Financial Services Centre (IFSC)**

- Section 47 of the Act provides for tax neutrality relating to certain transfers. In order to promote the development of world class financial infrastructure in India, it is proposed to provide that transactions in the following assets on a recognised stock exchange, by non-residents located in any IFSC shall not be regarded as transfer, if the consideration is paid or payable in foreign currency:
  - › Bonds or Global Depository Receipts;
  - › Rupee denominated bond of an Indian company; or
  - › Derivative.
- As per earlier provisions, this concessional rate of 9 % applied only to corporate taxpayers located in IFSC. It is further proposed to extend this concessional rate of 9 % to alternate minimum tax payable by non-corporate taxpayers located in an IFSC.
- This amendment will take effect from 1<sup>st</sup> April 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent assessment years.

## Key Proposals relating to Transfer Pricing

### Rationalisation of provisions relating to Country-by-Country Report

- Section 286 of the Income Tax Act contains provisions relating to Country-by-Country Reporting ('CbCR') in respect of an international group.
- Under the existing provisions, the parent entity or the alternate reporting entity of an international group which is resident in India is required to furnish a CbCR in respect of the international group on or before the due date specified in this regard for furnishing of return of income. Now the Finance Bill 2018 proposes with effect from financial year 2016-17, to allow a time limit of twelve months from the end of the Financial Year for furnishing of such CbCR, i.e. for financial year 2016-17, on or before 31<sup>st</sup> March, 2018 instead of 30<sup>th</sup> November, 2017.
- Further, a resident constituent entity, whose parent entity is resident outside India, will now also be required to file a CbCR, if the parent entity has no obligation to file the CbCR under its tax jurisdiction. Further, Finance Bill 2018 proposes to allow a time limit of twelve months from the end of the relevant accounting year (accounting year followed by parent entity), for furnishing CbCR under this Sub-section.
- Below is the table illustrating the applicable due dates for CbCR under Sub-sections (2) and (4), before and after amendments.

Section 286	CbCR Year	Particulars	Existing	Proposed
Sub-section (2)	1 <sup>st</sup> April 2017 - 31 <sup>st</sup> March, 2018	Parent Entity or Alternate reporting entity, resident in India	30 <sup>th</sup> November 2018	31 <sup>st</sup> March 2019
Sub-section (4)	1 <sup>st</sup> January - 31 <sup>st</sup> December, 2017*	Constituent entity resident in India (If under obligation to file CbCR), whose parent entity is resident outside India.	30 <sup>th</sup> November 2018	31 <sup>st</sup> December 2018

\* Calendar year is assumed to be the accounting year followed by the parent entity.

- In case where an alternate reporting entity of the international group is appointed to furnish CbCR, the due date for furnishing the CbCR is proposed to be amended to the due date as specified by the tax authority of the country or territory in which such entity is resident.
- Earlier, the term agreement would mean either Double Taxation Avoidance Agreement ('DTAA') **OR** an agreement as may be notified by the Central Government for exchange of the CbCR. Multilateral Competent Authority Agreement ('MCAA') has been notified by the Central Government as an agreement. Now, the new definition proposes to include both agreement categories cumulatively.

This may result in onerous compliance on the constituent entity resident in India where there is no agreement for exchange of CbCR.

- These amendments are clarifying in nature and would be applicable retrospectively from 1<sup>st</sup> April, 2017 and accordingly, apply in relation to the financial year 2016-2017 and subsequent years.

## Procedural Changes

### **New scheme for scrutiny assessment**

- To impart greater transparency and accountability in the assessment procedures, it is proposed to prescribe a new scheme of making assessments so as to eliminate the physical interactions between the Income tax authorities and the taxpayers.
- New sub-section (3A) and (3B), are proposed to be inserted in Section 143 to enable the Central Government to prescribe the aforementioned new scheme for scrutiny assessments and make necessary modifications in the existing provisions of the Act relating to Assessments.
- These amendments will take effect from 1<sup>st</sup> April 2018.

### **Rationalisation prosecution provisions for failure to furnish return**

- The Income Tax Act provides for an imprisonment and a monetary fine, in case a person wilfully fails to furnish a return of income within the due time. However, a relaxation is provided from prosecution if the tax payable does not exceed INR 3,000.
- In order to prevent abuse of the above relaxation by shell companies or by companies holding Benami properties, it is proposed to provide that the relaxation shall not apply in respect of such companies. Accordingly, every such company (irrespective of its tax liability) will be liable for prosecution as per this new section.
- This amendment will take effect from 1<sup>st</sup> April 2018.

### **Rationalisation of prima-facie adjustments during processing of return of income**

- At the time of processing of return of income, the existing section provides for certain adjustments to the declared total income or loss. Vide Finance Act, 2016, an amendment was made to provide for adjustments to be made in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 (statement/ certificate of taxes deducted at source) which has not been included in computing the total income in the return.
- With a view to restrict the scope of adjustments, it is proposed to insert a new proviso to provide that no adjustment shall be made in respect of any return furnished on or after the assessment year commencing on the 1<sup>st</sup> April 2018.
- This amendment will take effect from 1<sup>st</sup> April 2018 and will accordingly apply in relation to the Assessment Years 2018-19 and subsequent years.

**Penalty for failure to furnish statement of financial transaction or reportable account**

- Presently, a penalty of INR 100 per day/ INR 500 per day applies for failure to furnish a statement of financial transaction or reportable account within the prescribed time / period specified in the notice issued under the respective provisions.
- To ensure greater compliance of the reporting obligations, it is proposed to increase the penalty leviable from INR 100/ INR 500 per day currently, to INR 500/ INR 1,000 respectively for each day of continuing default.
- These amendments will take effect from 1<sup>st</sup> April 2018.

**Amendment to the structure of Authority for Advance Rulings**

- Section 245-O provides for the constitution of an Authority for Advance Rulings and constitution of its benches, for giving advance rulings under various taxation laws.
- In view of the proposed constitution of new Customs Authority for Advance Ruling, it is proposed to amend the existing provisions so as to provide that such Authority shall cease to act as an Authority for Advance Rulings, and shall act as an Appellate Authority for the purpose of the Customs Act, 1962 from the date of appointment of Customs Authority for Advance Rulings under the Customs Act, 1962.
- It is further proposed that such Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance ruling after the date of appointment of Customs Authority for Advance Rulings of the Customs Act, 1962.
- These amendments will take effect from 1<sup>st</sup> April 2018.

**Appeal against penalty imposed by Commissioner (Appeals) on an accountant, merchant banker or registered valuer**

- The Commissioner (Appeals) is empowered to levy a penalty on an accountant or merchant banker or registered valuer, as the case may be, for furnishing incorrect information in any report or certificate furnished under any provision of the Income Tax Act or Rules made thereunder.
- The existing provisions provide that any taxpayer aggrieved by any order imposing penalty may appeal to the Appellate Tribunal (ITAT) against such order.
- It is proposed to amend the existing provisions so as to make an order passed by a Commissioner (Appeals) levying penalty on accountant or merchant banker or registered valuer appealable before the Appellate Tribunal.
- This amendment will take effect from 1<sup>st</sup> April 2018.

## Other changes

### **Mandatory apply for Permanent Account Number ('PAN') for specified non-individual entities**

- In order to expand the tax net, it is proposed that, every non-individual entity should obtain a PAN as its Unique Entity Number ('UEN') for entering into a financial transaction of an amount aggregating to INR 0.25 million or more in a financial year.
- In addition to above, in order to link the financial transactions with the natural persons, it has been also proposed that the managing director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer or any person competent on behalf of such entities shall obtain a PAN.
- This amendment will take effect from 1<sup>st</sup> April 2018.

### **Restriction on cash payment by charitable or religious trusts or institutions**

- Presently, there are no restrictions on mode of payments by charitable or religious trusts or institutions. Also, there are no checks on whether such trusts or institutions follow the provisions of deduction of tax at source. This has led to lack of an audit trail for verification of application of income.
- In order to encourage cash-less economy and to reduce the generation and circulation of black money, it is proposed to disallow all the expenses, where such trust or institution fails to withhold the applicable taxes under the Income Tax Act.
- Similarly, it is also proposed to disallow any expenses for which payment in excess of INR 20,000 is made in cash i.e. otherwise than through the formal banking channels.
- This amendment will apply in relation to Assessment Year 2019-20 and subsequent years.

### **No expense deduction in case of unexplained credit, money and investment etc. determined by the tax officer**

- The existing provisions of the Income Tax Act, disallows any expense deduction in case of income arising due to unexplained credit (Section 68), money (Section 69A), expenditure (Section 69C) and investment (Section 69) etc. reported by the tax payer in its tax return of income. However, the provision was silent on disallowance of expenses in case where tax officer has made certain addition to the total income of the tax payer by virtue of explained credit, money and investment etc.
- It is proposed that, no deduction of expenses will be allowable even where additions are made by the Assessing Officer by virtue of explained credit, money and investment etc.
- This amendment will apply retrospectively from AY 2017-18.

### **Tax deduction at source on 7.75 % GOI Savings (Taxable) Bonds, 2018**

- At present, tax is deducted at source, where interest in excess of INR 10,000 is paid to a resident on 8 % Savings (Taxable) Bonds, 2003. The existing 8 % Savings (Taxable) Bonds, 2003 under section 193 of the Act, has been now replaced with new 7.75 % Savings (Taxable) Bonds, 2018.
- It is proposed that, taxes will be required to be deducted where interest in excess of INR 10,000 is paid to residents on 7.75 % Savings (Taxable) Bonds, 2018.
- The proposed amendment shall be applicable from 01<sup>st</sup> April, 2018.

### **Rationalisation of the provisions relating to Commodity Transaction Tax**

- The existing provisions define 'taxable commodities transaction' to mean a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised association.
- It is proposed to include 'options in commodity futures' in the definition of 'taxable commodities transactions'. It is proposed to amend the provisions so as to prescribe the rate at which sale of an option on commodity derivative shall be chargeable to tax and such tax shall be payable by the seller or by the purchaser optionally.
- Consequential amendments are also proposed to include the value of taxable commodities transaction, being option on commodities, as chargeable to tax.
- These amendments will apply in relation to the assessment year 2018-2019 and subsequent years.

### **Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement**

- The existing provisions state that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall be exempt subject to satisfaction of prescribed conditions. Further, it is also provided that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil after the expiry of the agreement or arrangement shall be exempt subject to such conditions as may be notified by the Central Government.
- The benefit of exemption is presently not available on sale out of the leftover stock of crude in case of termination of the said agreement or the arrangement.
- Given the strategic nature of the project benefitting India to augment its strategic petroleum reserves, it is proposed to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein.

- This amendment will take effect from 1<sup>st</sup> of April, 2019 and will, accordingly, apply in relation to assessment year 2019-20 and subsequent years.

#### **Royalty and FTS payment by NTRO to a non-resident to be tax-exempt**

- It is proposed to provide that income arising to non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to the National Technical Research Organisation NTRO will be exempt from income tax.
- Consequently, NTRO will not be required to deduct tax at source on such payments.
- This amendment will apply in relation to assessment year 2018-19 and subsequent assessment years.

## Indirect Taxes

### Goods and Services Tax

- There were expectations from the trade and industry that the Government would take several steps to align the Goods and Services Tax ('GST') provisions after issues emerged during the implementation phase. Some of these expectations were simplification of GST returns filing process (such as reduction of number of returns, discontinuation of invoice to invoice matching for credit entitlement), expanding the scope of input tax credit entitlement, faster refunds for exporters, centralised registration for large service providers etc. However, no amendments were carried out in the GST laws primarily due to the fact that the powers to undertake any changes in the GST laws can be done only through the GST Council procedure.
- Most of the recommendations made during the 25<sup>th</sup> GST Council meeting such as reduction of GST rates on certain goods and services, exemption on specified transactions, extension of time limit to carry out compliances etc. have already been notified.
- Further, E Way Bill system which was introduced to bring uniformity across the states for seamless inter-state movement of goods was supposed to be effective from 1<sup>st</sup> February 2018. However, due to glitches on the online portal and the difficulties faced by taxpayers, the same has been postponed indefinitely.
- Only change made in the Central GST Act was that the term 'Central Board of Excise and Customs' has been substituted by 'Central Board of Indirect Taxes and Customs' due to renaming of the board.



## Customs Duty

### Rate changes under Customs Duty

- The rate of Basic Customs Duty ('BCD') on specified parts of motor vehicles, Completely Knocked Down ('CKD') kits of four and two wheelers as well as specified radial tyres has been increased from 10 % to 15 %. The rate of BCD on Completely Built Units ('CBUs') of motor vehicles has been increased from 20 % to 25 % in order to boost local manufacturing.
- In order to protect the domestic industry, the rate of BCD on consumer goods such as specified foot ware, furniture, sunglasses, perfumes, cosmetics and silk fabrics is increased from 10 % to 20 %.
- BCD on electronic products such as mobile phones, specified parts of mobile phones, smart watches, video games, LCD/ LED/ OLED panels for televisions and specified medical devices also increased from existing 7.5 %/ 10 % levels to 15 %/ 20 %.
- Changes in the rate of BCD on various products have been provided in **Annexure C**.

### Social Welfare Cess introduced on import of goods in India

- With effect from 2<sup>nd</sup> February 2018, SWC has been introduced under Chapter VI of the Finance Bill, which is to be levied on import of goods in India, specified in the First Schedule to the Custom Tariff Act, 1975.
- SWC, at the rate of 10 % for majority of goods and 3 % for certain specified goods, shall be calculated on the aggregate of duties, taxes and cesses which are levied and collected under Section 12 of the Customs Act, 1962 and any other sum chargeable on these goods under any law but excluding Safeguard Duty, Countervailing Duty and Anti-Dumping Duty.
- However, vide Notification 13/2018 - Customs dated 2<sup>nd</sup> February 2018, SWC on IGST and GST Compensation Cess has been specifically exempted, making it applicable only on BCD.
- Consequently, the existing levies of Education Cess and Secondary and Higher Education Cess applicable on import of goods have been discontinued.
- The effective rate of Customs Duty on import of goods post implementation of SWC would be as follows:

Up to 1 <sup>st</sup> February 2018		From 2 <sup>nd</sup> February 2018	
Assessable Value (AV)	100	Assessable Value (AV)	100
BCD (10 % of AV)	10.00	BCD (10 % of AV)	10.00
EC and SHEC (3 % of BCD)	0.30	SWC (10 % of BCD)	1.00
IGST (18 % of AV+BCD+Cess)	19.85	IGST (18 % of AV+BCD+SWC)	19.98
Effective Rate of Customs Duty	30.15 %	Effective Rate of Customs Duty	30.98 %

- The rates of SWC on various goods have been provided in **Annexure B**.

#### **Jurisdiction of Customs Act extended**

- Section 1 of the Customs Act, 1962 has been amended, to extend its applicability to persons outside India, with regard to any offences committed under the Customs Act outside India. This would empower the Customs authorities to penalise individuals/ entities assisting the importers in contravening the provisions of the Customs regulations.
- Further, the definition of 'Indian Custom Waters' has been amended to extend the said limit from the existing 'Contiguous Zone of India' (24 nautical miles) to the 'Exclusive Economic Zone' of India (200 nautical miles). This would empower the Customs officers to search, confiscate and arrest persons contravening the provisions of the Customs Act.

#### **Valuation Mechanism prescribed for supply of warehoused goods**

- A new sub-section 8A and 10A under section 3 of the Custom Tariff Act, 1975 has been inserted prescribing the manner of valuation for computation of IGST and GST Compensation Cess of warehoused goods, which are sold to any person before clearance for home consumption or export in the following manner:
  - › Transaction Value or the value computed as per Customs Valuation Rules, whichever is higher, in case the entire consignment is supplied.
  - › Transaction Value of the proportionate value determined as per Customs Valuation Rules, whichever is higher, in case a part of the consignment is supplied.
  - › Transaction Value in case the goods are sold more than once before customs clearance.
- It should be noted that the above valuation mechanism is a departure to the mechanism prescribed under Circular 46/2017 - Customs dated 24<sup>th</sup> Nov 2017 which provided that IGST payable at the time of customs clearance is to be computed on the value of in-bond Bill of Entry. In addition, the circular also prescribed that IGST is also required to be paid on the transaction value of such supply of goods by the importer before customs clearance resulting in double taxation.
- The above change would lead to disputes on the valuation mechanism to be adopted for such supplies and well as the proposed levy of IGST twice on such transactions.

#### **Scope of assessments under Customs Act modified**

- The definition of term 'assessment' under the Customs Act has been amended in order to increase its scope to cover factors such as classification of goods, valuation of goods, exemption or concession from payment of customs duties, quantity, weight & measure of goods, place of origin or any other specific factor which would impact the computation of Customs Duty.

- At the same time, section 17 of the Custom Act has been amended to broaden the scope of verification by including 'Bill of entry' and 'Shipping bill' filed by the importers and exporters.
- However, at the same time, a proviso has been inserted to provide that such verification of self- assessed imported goods shall be carried out on a risk based selection criteria to be prescribed. Additionally, several sections of the Customs Act have been amended to provide clearance of goods by submission of Bill of Entry or the shipping bill through Customs Automated System.
- In case the said changes are implemented in the right spirit, there could be a significant reduction in the number of consignments referred for verification of self- assessment by regular importers and such clearances can be carried out electronically without assessment or physical examination of consignments.
- The scope of the re-assessment has also been extended by deleting the specific references of valuation, classification, exemption notifications and concessional duty notifications. This would enable re-assessment to be done for any reason as compared to specified reasons prescribed earlier.
- Additionally, the Board has been empowered to issue regulations for providing time limit and submission of documents as well as time limit for the assessing officer to finalise the provisional assessment.

#### **Amendments to promote cross border trade under WTO Trade Facilitation Agreement**

- Section 28 of the Customs Act, 1962 provides for recovery of duties not levied/ short-levied. The said section has been amended to provide that in cases not involving collusion, suppressions etc. a pre-notice consultation to be held, before issuing any demand notice to any person. This is aimed at reducing the number of litigations as well as would provide the assessee with an opportunity of being heard and pay only duty along with interest (if payable) and avoid penalty.
- At present, section 28 of the Customs Act did not provide a definitive time period for the purposes of adjudication of demand notices leading to huge pendency of cases. In order to address the issue, the Customs Act has been amended to provide that the adjudication of demand notices by the Customs authorities needs to be completed with a period of 6 months (in no fraud cases) and within 1 year (in fraud cases). This time frame is extendable by an officer senior to the adjudicating officer by a similar period of 6 months or 1 year. Most importantly, it has now been prescribed that the proceedings shall be deemed to be concluded "as if no notice was issued" in case adjudication is not completed within above prescribed timelines.
- Section 28 (10) of the Customs Act has been amended to provide that, in cases where a notice issued on account of collusion, wilful misstatement or suppression of facts is not found to be legally sustainable on account of period of limitation, then the normal period

of limitation shall apply and duty will be recovered as per normal period covered in the notice.

- Board has been empowered to provide trade facilitation measures or separate procedure for a class of importers or exporters or for categories of goods or on the basis of the modes of transport for expeditious clearance of goods, reduction in cost of clearance and maintenance of balance between customs control and facilitation of legitimate goods.
- Central Government has been authorised to enter into reciprocal arrangement for exchange of information with any other country or any competent authority for trade facilitation, risk analysis as well as combating and investigation of offenses under the provisions of the Customs Act or the laws of the corresponding country.
- A new Section 143 AA has been inserted to empower the board to take measures and to specify separate procedure or documentation for a class of importers or exporters or categories of goods or on the basis of mode of transport to facilitate trade.

#### **Rationalisation of Advance Ruling Mechanism**

- The scope of Advance Rulings has been expanded by amending the definition of “applicant” to include large number of importers and exporters with justifiable cause and also the definition of “advance ruling” to cover subjects beyond mere determination of duty.
- The Board has been empowered to create multiple Advance Ruling Authorities by appointing Principal Commissioners/ Commissioner of Customs as Chairman of the said authority. This will lead to reduction in the time taken due to increase in the number of such authorities.
- Section 28 (l) (6) of the Customs Act has been amended to reduce the time limit from six months to three months within which the authority shall pronounce its advance ruling.
- The existing Advance Ruling authority to be designated as Appellate Authority for Customs Advance Rulings and consequently, the right to appeal against the advance ruling before the Appellate Authority has been prescribed under section 28 (k) (a) of the Customs Act wherein, the Customs authority or the applicant can file an appeal within 60 days from the date of communication of the ruling, which is extendible by 30 days.

#### **Other Procedural changes**

- Section 153 of the Customs Act, 1962 has been substituted to include Speed Post or Courier with acknowledgement, registered email and publishing in newspapers as valid modes for delivery of notice and in case of non – service by such means, to also provide for affixing it at some conspicuous place at the last known place of business or residence in addition to affixing it on the notice board of the Custom House, etc.
- Section 51A has been inserted in the Customs Act to provide for advance deposit of amounts in the ‘electronic cash ledger’ and later use it for payment of duty, interest,

penalty, fees or any other sum payable under the Customs Act. This change is in line with GST where a similar concept of payment exists.

- A section has been inserted under a new Chapter XIIA of the Customs Act to provide a mechanism for audit of the assessment of imported or exported goods by Customs authorities. The said audit can be conducted either at the location of the Customs officer or the premises of the exporter/ importers.
- A new section 109A has been inserted, which seeks to authorise the officers to undertake 'Controlled delivery' of any consignment of goods to any destination in India or foreign country.
- Section 11 has been amended to provide that any prohibition/ restriction on imports/ exports of goods under any other Act for the time being in force shall not be effective unless the same is notified under the Customs Act. This would be significant relief as the restrictions imposed only under the Customs Act would be considered for such purposes.

#### **Exemptions under certain cases**

- A new section 25A has been introduced, to grant exemption from customs duty in cases where goods are imported for the purpose of repairs, further processing, manufacture provided goods are re-exported within 1 year from date of export.
- Further, section 25B has also been introduced to provide exemption from customs duty in cases where goods exported for the purpose of repairs, processing, manufacturing are re-imported again within a period of 1 year and subject to other prescribed conditions.
- It should be noted that the Government has already issued several notifications fully or partially exempting Customs Duties on such transactions. Therefore, the said notifications do not provide any new exemption and could have been included as a measure of caution.

#### **Excise Duty**

##### **Road and Infrastructure Cess**

- Road and Infrastructure Cess has been introduced which shall be levied and collected on goods specified in the Sixth Schedule (mainly petroleum products). The said levy on manufacture of the prescribed goods shall be in addition to any other duties of excise or taxes or cesses chargeable on such goods under the Central Excise Act, 1944 or any other law for the time being in force. Consequently, the existing Additional Duty of Excise ('Road Cess') on the said goods has been discontinued.
- The said Cess shall also be applicable as an additional duty of customs in case the said goods prescribed under the Sixth Schedule are imported in India. The said amount of cess would also be in addition to any other duties of customs or taxes or cesses chargeable on such goods under the Customs Act, 1962 or any other law for the time being in force.

- The effective rates of Road and Infrastructure Cess on manufacture or import have been provided in **Annexure B**.
- While the rate structure of the products specified in the Sixth Schedule changes due to the introduction of the Road and Infrastructure Cess, the effective rate of Excise and Customs duties on such products would remain the same.

## Service Tax

### Exemptions introduced with retrospective effect

- Service Tax has been exempted on the services provided by the Naval Group Insurance Fund by way of life insurance services provided to its personnel of Coast Guard under the Group Insurances Schemes of the Central Government. The said exemption has been made effective retrospectively from 10<sup>th</sup> September 2004, which is the date from when Life insurance Services became liable to Service Tax and up to 30<sup>th</sup> June 2017, which is the last appointed day under Service tax regime.
- Service Tax has also been exempted on the services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories administration. The said exemption has been made effective retrospectively from 28<sup>th</sup> March 2013, which is the date from when these services became liable to Service Tax and up to 30<sup>th</sup> June 2017, which is the last appointed day under Service Tax regime.
- Service Tax is also exempted on the consideration received by the Government in the form of Government's share of profit petroleum in respect of services provided by the Government by way of grant of licence or lease to explore or mine petroleum crude or natural gas or both. The said exemption has been made effective retrospectively from 1<sup>st</sup> April 2016, which is the date from when these services became liable to Service Tax and up to 30<sup>th</sup> June 2017, which is the last appointed day under Service Tax regime.
- In case Service Tax has been deposited on any of the above 3 services during the said period, refund applications can be filed within a period of 6 months from the date when the Finance Bill 2018 receives Presidential assent.

## Annexures

### Annexure A: Rates of Income Tax

#### Personal Income Tax rates

- (i) Resident individuals (other than those mentioned in (i) and (ii) below)

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (%)
0-250,000	Nil
250,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(ii) Resident individuals of the age of 60 years or more but less than 80 years.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (%)
0-300,000	Nil
300,001-500,000	5
500,001-1,000,000	20
Above 1,000,000	30

(iii) Resident individuals above the age of 80 years.

Existing Income Tax rates	
Income Slab (INR)	Tax Rate (%)
0-500,000	Nil
500,001-1,000,000	20
Above 1,000,000	30

- The rate of surcharge at 10 % is to be levied on income-tax in case total income exceeds INR 5 million and is up to INR 10 million;
- The rate of surcharge at 15 % to levied on income-tax in case the total income exceeds INR 10 million.
- Health and Education Cess at the rate of 4 % would be levied on the amount of Income Tax.

### Corporate Tax Rates

Description	Tax rate (%)	Effective Tax Rate (including surcharge and Cess) (depending upon income levels)
<b>Domestic Company:</b>		
Income Tax	30 %**	31.2 %/ 33.38 %/ 34.94 %
<ul style="list-style-type: none"> <li>▪ Domestic company with turnover or gross receipts not exceeding INR 2,5 billion in FY 16-17</li> <li>▪ New domestic manufacturing companies</li> </ul>	25 %	26%/ 27.82 %/ 29.12%
Minimum Alternate Tax - general corporates	18.5 %	19.24 %/ 20.59 %/ 21.55 %
<b>Foreign Company:</b>		
Income Tax	40 %	41.6 %/ 42.43 %/ 43.68 %

\*\* Concessional Tax rate 25 % extended to domestic companies whose total turnover or gross receipts in the previous year 2016-17 does not exceed INR 2,5 billion from the erstwhile threshold of INR 500 million

## Annexure B: Important changes in the rates of Customs Duty

### Amendments in rate of BCD

Item/ Product		Existing	Proposed
Category	Description		
Textiles	Silk Fabrics	10 %	20 %
Capital goods and Electronics	Printed Circuit Board Assembly (PCBA) of charger/adaptor and modulated plastics of charger/adaptor of cellular mobile phones	--	10 %
	Inputs or parts for manufacture of: a) PCBA, or b) moulded plastics of charger/adaptor of cellular mobile phones	Applicable Rate	--
	Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools falling under headings 8456 or 8463.	7.5 %	2.5 %
	Solar tempered glass or solar tempered (anti-reflective coated) glass for manufacture of solar cells/panels/modules	5 %	--
	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables.	--	5 %
	12 specified parts for manufacture of LCD/LED TV panels	--	10 %
	LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5 %/ 10 %	15 %
	Cellular mobile phone	10 %	20 %
	Specified parts and accessories including lithium ion battery of cellular mobile phones	7.5 %/ 10 %	15 %
	Smart Watches / wearable devices	10 %	20 %
Automobile parts	Truck and Bus radial tyres	10 %	15 %
	Specified parts/accessories of motor vehicles, motor cars, motor cycles.	7.5 %/ 10 %	15 %
	CKD imports of motor vehicles, motor cars, motor cycles.	10 %	15 %
	CBU imports of motor vehicle.	20 %	25 %
Medical Devices	Raw materials, parts or accessories for the manufacture of Cochlear Implants.	2.5 %	--
Furniture	Seats and parts of seats (other than aircraft seats and their parts).	10 %	20 %



	Other furniture and parts.	10 %	20 %
	Mattresses supports, articles of bedding and similar furnishing.	10 %	20 %
	Lamp and lighting fitting illuminated signs, illuminated name plates and the like (except solar lanterns or solar lamps).	10 %	20 %
Toys and Games	Tricycles, scooters, pedal cards and similar wheeled toys, dolls' carriages, dolls, other toys, puzzle of all kinds.	10 %	20 %
	Video games consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment.	10 %	20 %
	Festive, carnival or other entertainment articles.	10 %	20 %
	Articles and equipment for sports or outdoor gas, swimming pools and padding pools (other than articles and equipment for general physical exercise, gymnastics or athletics).	10 %	20 %
	Fishing rods, fishing-hooks and other line fishing tackle, fish landing nets, butterfly net and similar nets, decoy birds and similar hunting or shooting requisites.	10 %	20 %
	Roundabouts, swings, shooting galleries and other fairground amusements, travelling circuses, travelling menageries and travelling theatres.	10 %	20 %
Refractory Items	Other articles of stone containing magnesite, dolomite or chromite.	10 %	7.5 %
	Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths.	10 %	7.5 %
	Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those of siliceous fossil meals or similar siliceous earths.	5 %	7.5 %
	Other refractory ceramic goods.	5 %	7.5 %

**Social Welfare Surcharge**

Item/ Product		Existing	Proposed
Category	Description		
Motor Spirit	Motor spirit commonly known as petrol and high speed diesel oil.	--	3 % of aggregate duties of customs
Silver or Gold	Silver or gold (including silver or gold plated with gold or platinum), unwrought or in semi-manufactured form, or in powder form	--	3 % of aggregate duties of customs
	Levy of Social Welfare Surcharge on imported goods	--	10 % of aggregate duties of customs
	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods	3 % of aggregate duties of customs	

**Road and Infrastructure Cess on imports**

Item/ Product		Existing per litre	Proposed per litre
Category	Description		
Motor Spirit	Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high speed diesel oil.	--	INR 8
	Abolition of Additional duty of Customs (Road Cess) on imported motor spirit commonly known as petrol and high speed diesel oil.	INR 6	--
	Additional duty of Customs on Motor spirit commonly known as petrol.	INR 6.48	INR 4.48
	Additional duty of Customs on High speed diesel oil	INR 8.33	INR 6.33

**Excise Duty and Road and Infrastructure Cess rates**

Item/ Product		Existing per litre	Proposed per litre
Category	Description		
Motor Spirit	Excise duty on Unbranded Petrol	INR 6.48	INR 4.48
	Excise duty on Branded Petrol	INR 7.66	INR 5.66
	Excise duty on Unbranded diesel	INR 8.33	INR 6.33
	Excise duty on Branded diesel	INR 10.69	INR 8.69
	Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high speed diesel oil.	--	INR 8
	Road and Infrastructure Cess on petrol and diesel manufactured in and cleared from refineries located in the North East.	--	INR 4



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