

BUDGET 2018 HIGHLIGHTS – DIRECT TAXES

TAX RATES

No change in tax rates and basic exemption limit

Tax rates continue to be same for A.Y. 2019-20 as applicable for A.Y. 2018-19. Further, there is no change in the basic exemption limit.

Health and Education Cess

“Education Cess on income-tax” @2% and “Secondary and Higher Education Cess on income-tax” @1% is levied.

Proposed amendment: A new cess named “Health and Education Cess is proposed to be levied @ 4% of income-tax including surcharge, if applicable, in place of existing cess of “Education Cess and “Secondary and Higher Education Cess on income-tax”.

PERSONAL TAXATION

Relief to Salaried employees

At present an employee is entitled for exemption of Rs. 19,200 (Rs. 38,400 for physically handicapped or blind or deaf and dumb employees) towards transport allowance and exemption of Rs. 15,000 in respect of reimbursement of medical expenses. No Standard deduction is allowed.

Proposed amendment: A standard deduction of maximum of Rs. 40,000 is proposed to be allowed to salaried employees in lieu of present exemption in respect of transport allowance and reimbursement of medical expenses. **The net benefit is only Rs. 5,800 which would be further reduced due to increase in cess by 1%.** However, benefit of enhanced transport allowance to differently able persons shall be allowed.

Deduction in respect of interest income to senior citizen

A deduction upto Rs 10,000 is allowed under section 80TTA to an assessee in respect of interest income from savings account.

Proposed amendment: A new section 80TTB proposed to be inserted to enhance **such deduction to Rs. 50,000** from the existing limit of Rs. 10,000 for senior citizens. Moreover, the benefit of such deduction is proposed to extended to interest on fixed deposits and recurring deposits.

Deductions available to senior citizens in respect of health insurance premium and medical treatment

Section 80D, inter-alia, provides that a deduction upto Rs 30,000 to an assessee, being an individual or a Hindu undivided family, in respect of payments towards annual premium on health insurance policy, or preventive health check-up, of a senior citizen, or medical expenditure in respect of very senior citizen.

Proposed amendment: Section 80D proposed to be amended to increase such limit of deduction from Rs. 30,000 to Rs. 50,000 for resident senior citizens, who is of the age of 60 years or more during the previous year.

Senior citizens not covered by insurance can claim reimbursement of medical expenditure upto Rs. 50,000. Earlier this benefit was available only for very senior citizens.

Further, in case of single premium health insurance policies to effect or to keep in force an insurance on the health for more than a year, it is proposed that the deduction shall be allowed on proportionate basis for the number of years for which health insurance cover is provided, subject to the specified monetary limit.

Enhanced deduction to senior citizens for medical treatment of specified diseases

Section 80DDB, *inter-alia*, provide that a deduction shall be available to an individual and Hindu undivided family in respect of an amount paid for medical treatment of specified diseases upto Rs 80,000 in case of very senior citizen and upto Rs 60,000 in case of senior citizens.

Proposed amendment: It is proposed to **increase such deduction upto Rs. 1,00,000 for both senior citizens and very senior citizens** in place of existing deduction upto Rs 80,000 and Rs. 60,000 in respect of very senior citizen and senior citizens, respectively.

Extending the benefit of exemption of withdrawal from NPS to non-employee subscribers

The existing provisions of the clause (12A) of section 10 of the Act provides an exemption of 40% of the total amount payable to an employee contributing to the NPS on closure of his account or on his opting out. This exemption is not available to non-employee subscribers.

Proposed amendment: It is proposed to amend this section to extend the benefit of such **exemption to all assessees. However, benefit of exemption under clause (12B) for partial withdrawal continues to be restricted to employees alone.**

CAPITAL GAINS TAXATION

Taxability of Long-term Capital Gains on sale of listed equity shares etc.

Long term capital gains(LTCG) arising from transfer of long term capital assets, being equity shares of a company or an unit of equity oriented fund or an unit of business trusts, is exempt by virtue of section 10(38), provided sale and acquisition transactions carried out on a recognized stock exchange and are liable to securities transaction tax (STT).

Proposed Amendment: In order to minimize economic distortions and curb erosion of tax base, section 10(38) proposed to be withdrawn. For taxing LTCG in excess of Rs. 1 lakh @10%, a new section 112A proposed to be inserted with effect from A.Y. 2018-19.

All LTCG up to 31st January, 2018 will be grandfathered by way of providing that the **cost of acquisitions** in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018 , shall be deemed to be the higher of –

- a) the actual cost of acquisition of such asset; and
- b) the lower of –
 - (I) the fair market value of such asset on 31.1.2018 ; and
 - (II) the full value of consideration received or accruing as a result of the transfer of the capital asset.

Such capital gains would neither be eligible for benefit of Chapter VI-A deductions nor rebate u/s 87A.

Short-term Capital Gains under section 111A

Short-term capital gains taxable under section 111A would continue to be taxable @15%.

Conversion of stock-in-trade into Capital Asset

Section 45 of the Act, *inter alia*, provides that capital gains arising from a conversion of capital asset into stock-in-trade shall be chargeable to tax. However, in cases where the stock in trade is converted into, or treated as, capital asset, the existing law does not provide for its taxability.

Proposed Amendment: Section 28 proposed to be amended to tax the profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset as business income. The full value of the consideration received or accruing as a result of such conversion would be fair market value of the inventory on the date of conversion determined in the prescribed manner.

Further, for determining capital gain on transfer of such capital asset, the fair market value on the date of conversion shall be the cost of acquisition. The period of holding would be reckoned from the date of conversion or treatment.

It may be noted that business income would be taxable in the year of conversion and there is no provision for postponement of taxability of income to the year in which the transfer took place.

Transfer of immovable property

At present, while taxing income from capital gains (section 50C), business profits (section 43CA) and other sources (section 56) arising out of transactions in immovable property, the sale consideration or stamp duty value, whichever is higher is adopted. The difference is taxed as income both in the hands of the purchaser and the seller.

Proposed Amendment: Section 50C, 43CA & 56 proposed to be amended to provide 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.

Deduction under section 54EC

Deduction under section 54EC is available in respect of capital gain, arising from the transfer of a long-term capital asset, invested in the long-term specified asset at any time within a period of six months after the date of such transfer. Long-term specified asset means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India (NHAI) or by the Rural Electrification Corporation Limited (RECL); or any other bond notified by the Central Government.

Proposed Amendment: Section 54EC proposed to restrict the exemption in respect of capital gain arising from the transfer of **a long-term capital asset, being land or building or both only and not other capital assets**. Further, the period for redemption of long-term specified asset, being a bond increased from **three years to five years**.

INCOME COMPUTATION DISCLOSURE STANDARDS (ICDSs)

The central government has notified ten ICDSs effective from A.Y. 2017-18. These are applicable to all assesses (other than an individual or a Hindu undivided family who are not subject to tax audit under section 44AB of the said Act) 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".

Proposed Amendment: The Delhi High Court in case of *Chamber of Tax Consultants & Anr Vs. Union Of India & Ors* has held that certain provisions of ICDSs are *ultra vires* the Income-tax Act, 1961. In order to bring

certainly, the following amendments are proposed to be effected with retrospective effect from A.Y. 2017-18, in the Income-tax Act in line with the ICDSs:

Section No. Proposed to be amended/inserted	Proposed Amendment
36 & 40A	ICDS I: Accounting Policies ICDS I provides that marked to market losses would not be allowed unless the same is in accordance with any other ICDS. Therefore, only Marked to market losses specifically permitted under any other ICDS would be allowable as deduction under section 36. Other marked to market losses would not be allowed as per section 40A.
43AA	ICDS VI: Effects of changes in Foreign exchange rates 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.
43CB	ICDS III: Construction Contract Profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method as per ICDS III except for certain service contracts. Contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.
145A	ICDS II : Valuation of Inventory Valuation of inventory shall be made at lower of actual cost or net realizable value computed as per ICDS II: Valuation of Inventories. However, inventories being securities not listed on a recognised stock exchange with regularity from time to time, has to be valued at actual cost initially recognised . Other securities held as inventory would be valued at lower of actual cost or net realisable value.

BUSINESS TAXATION

Incentives to micro and SMEs

Domestic companies whose turnover was less than Rs. 50 crore in financial year 2015-16 was liable to pay corporate tax @25% in FY 2017-18.

Proposed amendment: The benefit of concessional rate of corporate tax@25% is proposed to be extended to domestic companies whose total turnover or gross receipt in the previous year 2016-17 does not exceed Rs. 250 crores.

Charitable Trusts: To go digital for claiming exemption

Last year, the post demonetisation Union Budget witnessed changes in tax laws denying benefit of deductions from business income in respect of expenditure for which cash payment exceeds Rs.10,000 . However, such changes were not incorporated in the special taxation regime applicable to charitable trusts. Hence, charitable trusts were availing benefits even in respect of application of income by way of cash payments.

Proposed amendment: This year, the restrictive provisions are proposed to be made applicable to charitable trusts governed by the special taxation regime under section 10(23C) and 11 and 12. Furthermore, non-deduction of tax at source would now attract disallowance in the hands of the charitable trust also. This is a positive measure for bringing charitable trusts into the digital net.

Deduction in respect of employment of new employees

A deduction of 30% is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year under section 80JJAA.

However, the minimum period of employment is relaxed to 150 days in the case of apparel industry.

Proposed amendment: Section 80JJAA proposed to be amended to **extend this relaxation to footwear and leather industry**. Further, the deduction of 30% would also be available for a new employee who is employed for less than the minimum period during the first year but continues to remain employed for the minimum period in subsequent year. **Such deduction would be available from the subsequent year.**

Deduction in respect of income of Farm Producer Companies

Section 80P provides for 100 percent deduction in respect of profit of cooperative society which provide assistance to its members engaged in primary agricultural activities.

Proposed amendment: This benefit proposed to be extended to Farm Producer Companies (FPC), having a total turnover upto Rs 100 crore, whose gross total income includes any income from-

- (i) the marketing of agricultural produce grown by its members, or
- (ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
- (iii) the processing of the agricultural produce of its members.

The benefit shall be available for a period of five years from the financial year 2018-19.

Dividend Distribution tax on deemed dividend

Dividend distributed by a domestic company is subject to dividend distribution tax payable by such company. However, deemed dividend under section of 2(22)(e) is taxed in the hands of the recipient and no dividend distribution tax is currently being levied.

Proposed amendment: It is proposed to tax deemed dividend referred under section 2(22)(e) in the hands of company. Dividend distribution tax @30% without grossing up is proposed to be levied on the company.

Expanding scope of accumulated profits for deeming dividend

Accumulated profits for deeming dividend has been provided in section 2(22) as all profits of the company upto the date of distribution or payment or liquidation, subject to certain conditions.

Proposed amendment: The scope of accumulated profits for deeming dividend would include, in a case of amalgamated company, the accumulated profits of the amalgamating company also, whether capitalised or not, on the date of amalgamation.

RETURN OF INCOME AND ASSESSMENT PROCEDURE

Mandatory filing of return to claim deduction under the heading C in Chapter VIA

Section 80AC provides that 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 assessee is furnished on or before the due date specified under sub-section (1) of section 139 of the Act.

Proposed amendment: It is proposed to extend the scope of section 80AC to provide that the benefit of deduction under the heading "C.—Deductions in respect of certain incomes" in Chapter VIA **shall not be allowed unless the return of income is filed by the due date. It will now include its scope section 80P, 80PA, 80QQB and 80RRB.**

Entities to apply for Permanent Account Number in certain cases

Section 139A, *inter-alia*, provides that every person specified therein and who has not been allotted a permanent account number shall apply to the Assessing Officer for allotment of a Permanent Account Number (PAN).

Proposed amendment: Section 139A proposed to be amended to provide that non-individual entities, which enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year shall be required to apply to the Assessing Officer for allotment of PAN. Further, the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer or any person competent to act on behalf of such entities would also apply to the Assessing Officer for allotment of PAN.

Prosecution for failure to furnish return

Section 276CC provides that if a person willfully fails to furnish in due time the return of income which he is required to furnish, he shall be punishable with imprisonment for a term, as specified therein, with fine. However, a person shall not be proceeded against under the said section for failure to furnish return if the tax payable by him on the total income determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed Rs. 3,000.

Proposed amendment: It is proposed to exclude company from such exemption of prosecution. **Therefore, companies would be liable for prosecution for failure to furnish return even if there is no tax liability.**

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

Section 143(1) provides for processing of return of income made under section 139, or in response to a notice under section 142(1). At the time of processing of return, the total income or loss shall be computed after making the adjustment, *inter alia*, **in respect of addition of income appearing in Form 26AS or Form 16A or Form 16** which has not been included in computing the total income in the return.

Proposed amendment: It is proposed to restrict the scope of adjustments in processing of return by providing that **aforsaid adjustment shall not be made** in respect of any return furnished on or after the assessment year commencing on the first day of April, 2018.

E-Assessments: A tax-payer friendly measure

The budget proposal to notify an electronic mode for assessment across the country will significantly reduce harassment of tax payers by the tax authorities and usher in greater efficiency and transparency in the assessment procedure.