

# **ANALYSIS OF FINANCE BILL 2018**

## **(DIRECT TAX PROPOSALS)**



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The Finance bill 2018 is a set of proposals and can undergo changes during its approval in parliament.

***(FOR PRIVATE CIRCULATION ONLY)***

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**1. Rate of Taxes****1.1 Rate Of Taxes- For individual(Other than those falling in special categories), HUF, AOP, BOI, AJP**

<b>Sr No.</b>	<b>Income Limit</b>	<b>Rate</b>
1	Upto 2,50,000	NIL
2	2,50,001 to 5,00,000	5%
3	5,00,001 to 10,00,000	20%
4	Above 10,00,000	30%

**1.2 Rate Of Taxes- For individual(Resident & Age 60 years or more)**

<b>Sr No.</b>	<b>Income Limit</b>	<b>Rate</b>
1	Upto 3,00,000	NIL
2	3,00,001 to 5,00,000	5%
3	5,00,001 to 10,00,000	20%
4	Above 10,00,000	30%

**1.3 Rate Of Taxes-For Individual (Resident & Age 80 years or more)**

<b>Sr No.</b>	<b>Income Limit</b>	<b>Rate</b>
1	Upto 5,00,000	NIL
2	5,00,001 to 10,00,000	20%
3	Above 10,00,000	30%

**1.4 Surcharge (Super Rich Surcharge)**

- 10 % of Tax, if Total Income Exceeds 50 Lac Rs but does not exceed 1 Crore Rs.
- 15 % of tax, if Total Income exceeds 1 crore
- Marginal Relief is available

**1.5 Co-operative Societies**

## Tax Rates

(1)	Where the total income does not exceed Rs. 10,000	10 % of the total income
(2)	Where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 plus 20% of the amount by which the total income exceeds Rs. 10,000
(3)	Where the total income exceeds Rs. 20,000	Rs. 3,000 plus 30% of the amount by which the total income exceeds Rs. 20,000

Surcharge at Rate of 12% of tax, in case income exceeds 1 crore.

**1.6 Firms**

Tax Rate @ 30 % On the whole of the total income  
Surcharge at rate of 12% of Tax in case of income exceeds 1 crore.

**1.7 Local Authorities**

Tax Rate @ 30 % On the whole of the total income  
Surcharge at rate of 12% of Tax in case of income exceeds 1 crore.

**1.8 Companies**

## Tax Rates

(1)	Domestic Company having Turnover in FY 2016-17 does not exceed 250 Crores	25%
(2)	Domestic Company other than those mentioned in(1)	30%
(3)	Other Than Domestic Company on Royalty and FTS where agreement made after 31-3-1961/29-2-1964 and before 1-4-1976	50%
(4)	Other Than domestic Company (On the balance of Income)	40%

Note :

- a) Tax rates indicated above apply to total income of the nature other than the income of the specified nature referred to in the Act.

## Surcharge

<b>Sr No</b>	<b>Nature Of Company</b>	<b>TI from 1 to 10 cr</b>	<b>TI ABOVE 10 cr</b>
(1)	Domestic Company	7%	12%
(2)	Other than Domestic Company	2%	5%

Note:

1. Marginal relief is Available.
2. Surcharge @ 12 % on Other Cases of Tax on Distributed Income

**1.9 CESS :** In case of all categories of assesses a Health and Education cess will be levied at 4 % on income tax inclusive of surcharge.



**2. Other Taxes & Credits**

**2.1 Minimum Alternate Tax for companies (Sec 115JB)**

- a. Allowability of Loss or Unabsorbed Depreciation - In case of foreign company ,aggregate loss or unabsorbed depreciation is made allowable deduction while computing book profit u/s 115 JB where application for insolvency resolution process under insolvency and bankruptcy court 2016 is admitted (W.e.f. A.Y. 2018-19)
- b. Income of Foreign company chargeable under specified sections- A clarificatory the amendment is proposed which declares that in case of foreign company if its income is solely from nature of business as referred to in prescribed sections 44 A, 44 BB, 44 BBA, 44 BBB – then provisions of u/s 115 JB would not be applicable.(AY 2001-02)

**2.2 Tax on Distributed Dividend (Sec 115O)**

- i) At present, dividend distributed, declared or paid attracts distribution tax at the rate of 16.80 %. However the deemed dividend as defined u/s 2(22)(e) is not included in the amount of dividend liable to DDT u/s 115O .
- ii) It is proposed in the budget to remove this exclusion and the DDT will be levied on entire amount of Dividend including deemed dividend as defined u/s 2(22)(e)
- iii) Wef 1-4-2018

**2.3 Tax On distributed income of mutual fund (Sec 115 R)**

- i) Section 115R imposes tax on income distributed by mutual funds at the prescribed rates. However units of equity oriented mutual fund are excluded from this provision and there is no tax on income distributed to unit holders of equity oriented mutual funds
- ii) It is proposed in the budget to make such a distribution of income liable to tax at 10% in view of the withdrawal of tax exemption on capital gain of such units.
- iii) Wef 1-4-2018

**2.4 Taxation of long term capital gain of foreign institutional investors (Sec 115AD)**

- i) At present income by way of long term capital gain tax on transfer of certain securities attracts taxation of 10% in case of foreign institutional investors. There is no tax on long term capital gain on transfer of equity shares, unit of business trust and unit of equity oriented funds due to exemption provided in sec 10(38)
- ii) In view of withdrawal of exemption under section 10(38) it is proposed to amend section 115 AD and to provide that such capital gains in excess of Rs. 1 lakh will be liable to tax in the hands of FII at the rate of 10% u/s 112A (Wef A.Y. 2019-20)

**2.5 Special rate of tax for domestic companies (Sec 115BA)**

- i) At present income of domestic companies engaged in manufacture or production of article or thing or research relating to it or in distribution of such article or thing is liable to lower rate of tax at 25% on its income provided it fulfils certain conditions
- ii) It is proposed in the budget by way of clarificatory amendment that the tax @ 25% will be applicable on income from business of manufacturing or production of article or thing and from other activities referred to in the same section but income falling under other heads of income other than business will continue to be taxed at prevailing rate of Tax.
- iii) Wef A.Y. 2017-18

**2.6 Alternate Minimum Tax for Non corporate Tax Payers**

- i) As per present provisions for non-corporate taxpayers, if income tax payable under normal provisions is less than AMT then the tax payable by them would be AMT which is required to be calculated at 18.5% of adjusted total income. The adjusted total income means total income computed without claiming deductions in respect of certain incomes, deduction of profit of any SEZ unit, and 100 % deduction for capital expenditure in case of specified business.
- ii) Wef A.Y. 2019-20

**2.7 Income to be charged at special rates (Sec 115BBE)**

- i) The income referred to in section 68 Cash credits, section 69 unexplained investment, 69A unexplained money etc., 69B partly recorded investments or Money etc. and 69C unexplained expenditure is liable to be taxed at the rate of 60% and it is further provided that no deduction in respect of any expenditure, allowance or set off of loss shall be available against such income. The income excluding the above referred to income is liable to tax at the rate of normal rate of tax.
- ii) It is proposed in the budget that in respect of income which is liable to be taxed at the normal rate excluding the above specified categories of income, no deduction shall be allowed for items of undisclosed cash credits, unexplained investments, unexplained money or unexplained expenditure.
- iii) Wef A.Y. 2017-18

**3. Provisions relating to Exempted income (Sec 10)****3.1 Taxation of amount withdrawn from NPS account (Sec 10 (12A))**

- i) At present employees contributing to NPS account are entitled to tax exemption on 40% of the amount payable to them on closure of the NPS account or on their opting out of the NPS account. Such exemption is not available to non-employee subscribers.
- ii) It is proposed in the budget to cover non-employees also for the purpose of exemption of 40% of the amount received by them
- iii) Wef A.Y. 2019-20

**4. Charitable trusts and Institutions****4.1 Application of Income (Sec 11 and Sec 10(23c) Clauses(iv,v,vi,via)**

- i) At present the charitable and religious trusts and institutions as referred to in sec 11 as well as certain charitable and other institutions as referred to in sec 10(23C) ,clauses (iv,v,vi,via) enjoy tax exemption if the income is applied for their objects. Similar exemption is available if the income is accumulated in a year and is used in later years, subject to fulfillment of certain conditions.

- ii) It is proposed to make such application of income liable to provisions of TDS (sec 40(a)(ia)) as is applicable in case for allowability of expenses in case of computation of business income. It is further proposed to cover such application of income provisions of sec 40A, 40A(3) which restrict payment in cash to Rs. 10000 per day.
- iii) Wef AY 2019-20

## **5. Non Resident Taxation**

### **5.1 Permanent Establishment and Significant Economic Presence (Sec. 9(1))**

- i) As per the present provisions of section 9(1)(i), any income arising through or from any business connection in India is liable to tax in India. The term business connection is defined to include activity carried out by a Non Resident through any other person in India but the scope is restrictive. As per present provision it requires an authority in favour of the person in India and exercise of authority by him as a matter of a routine, to conclude contracts on behalf of Non Resident. If he does not have authority but is engaged in carrying out activity of securing orders or delivery of goods on behalf of non-resident than also it will create business connection for the non-resident. However If a person in India is working as an agent of independent status, not exclusively working for non-resident, his association with non-resident in the ordinary course of his business will not constitute business connection.
- ii) a) It is proposed in the budget to expand the meaning of business connection so as to cover significant economic presence of a non-resident in India as forming business connection for him and therefore income arising to non-resident out of such significant economic presence in India will be liable to tax in India as per domestic tax laws.

b) It is also proposed to define meaning of significant economic presence covering financial transactions with a monetary threshold and also certain activities through digital means

iii) Wef AY 2019-20

**5.2 Transfer of assets through stock exchange located in IFSC**

i) It is proposed to make certain transfer of financial assets made by non-residents exempt from capital gain tax u/s 47. The exemption is available to transfer on recognized stock exchange located in International financial services Centre (IFSC) and the consideration is received in foreign currency.

ii) Wef AY 2019 – 20

**5.3 Payment by National technical research organisation to non-resident**

i) It is proposed to make payment by way of Royalty/Fees for Technical Services made by National technical research organization to a non-resident person as tax-free.

ii) Wef AY 2019-20

**6. Taxation of Business Income****6.1 Compensation receipts referred to in (Sec 28 (ii))**

i) As per present provisions of section 28(ii), certain compensation receipts are liable to tax in the hands of the recipient person as his business income. Such type of receipts are mainly limited to termination or modification of terms and conditions of his association with company or his agency relating to business of other person and vesting of his business or property in government.

ii) It is proposed in the budget to cover compensation receipts relating to termination or modification of terms and conditions of any contract relating to his business. The scope gets widened to include any type of compensation receipts arising out of business, may it be capital or revenue receipts.

iii) Wef Ay 2019-20

**6.2 Presumptive taxation in case of transport business (Sec 44 EE)**

- i) At present transporters engaged in plying, hiring or leasing goods carriages are liable to tax at the rate of 7500 per month if number of goods carriages owned by them is up to 10 or actual amount of profit earned by them, whichever is higher
- ii) It is proposed in the budget to tax large capacity goods carriages differently by prescribing criteria of Rs. 1000 per ton of gross vehicle weight or unladen weight in case of heavy goods carriages defined as having gross vehicle weight of more than 12 Tonne. or actual profit, whichever is higher. The transporters not covered by the above criteria will continue to be taxed at the existing rates.
- iii) Wef Ay 2019-20

**6.3 Transactions in agricultural commodities (Sec 43 (5))**

- i) Section 43(5) makes certain transactions as non-speculative if carried out without settlement in actual delivery. Clause (e) of section 43(5) makes trading of, commodity derivatives as non-speculative if it is chargeable to commodity transactions tax(CTT) as per Finance act 2013. This makes agricultural commodity derivatives speculative transaction because it is Exempt from CTT.
- ii) It is proposed in the budget to amend section 43 (5) to make transactions in agricultural commodity derivatives which are not chargeable to CTT, as non-speculative.
- iii) Wef Ay 2019-20

**6.4 Conversion of inventory into Capital to be taxed as business income**

- i) At present conversion of capital asset into stock in trade is liable to tax as capital gain as well as business income as per provisions of Sec 45(2). However the reverse conversion is not liable to tax.

- ii) It is proposed in the budget that such conversion of inventory into capital asset will be liable to tax as business income u/s 28. The FMV of inventory on the date of conversion shall be treated as full value of consideration for the purpose of computation of business income. Consequential amendments have also been made in section 2(24) - definition of income, section 49 for cost of acquisition of such converted capital asset and section 2(42A) for calculation of the period of holding of such converted capital asset.
- iii) W.e.f. A.Y. 2019-20

## **7. Taxation of Other Source Income (Sec 56)**

### **7.1 Income from termination of Employment Contracts**

- i) It is proposed in the budget to make compensation receipts relating to termination or modification of terms and conditions of his employment contract as taxable u/s 56
- ii) Wef A.Y. 2019-20

## **8. Capital Gain**

### **8.1 Scope of Exemption for investment in Capital Gain Bonds (Sec 54EC)**

- i) At present section 54 EC gives benefit of tax exemption in respect of long-term capital gain arising on account of transfer of any type of assets and to get the exemption it is required to invest amount of capital gain in specified long-term assets being bonds and the lock in period is 3 years.
- ii) It is proposed in the budget to restrict benefit of investment in specified bonds to long-term capital gain arising on transfer of assets being land or buildings both only, and no for other type of assets. It is also proposed to lengthen the locking period from 3 years to 5 years.
- iii) W.e.f. A.Y. 2018-19

**8.2 Tax Exemption on Long term capital gain withdrawn Sec (10(38))**

- i) As per present provisions the sale of long term capital asset being equity shares of a company, unit of equity oriented mutual fund and unit of business trusts enjoy tax exemption subject to fulfillment of certain conditions relating to security transaction tax.
- ii) It is proposed in the budget to provide for a 10 % tax on long term capital gains exceeding 1 lac Rupees, arising after 31-3-2018 on the sale of long term capital asset being equity shares of a company, units of equity oriented mutual fund and units of business trusts as per section 112A to be introduced for the purpose. The following are the salient feature of the new tax regime.
  - a) The benefit of indexation and conversion of cost and sale consideration into foreign currency, in case of Non resident will not be available.
  - b) The cost of acquisition of long term assets acquired on or before 31-1-2018 will be taken as a higher of the following two figures.
    - Actual cost of Acquisition
    - Lower of Fair Market Value as on 31-1-2018 or full value of consideration accruing as result of transfer
- iii) Wef Ay 2019-20

**9. Incentives, Deductions and Reliefs****9.1 Deduction for medical Insurance premium (Sec 80D)**

- i) It is proposed in the budget to increase the present limit of Rs. 30,000 covering payments for medical insurance, preventive health checkup for senior citizens and payments for medical expenditure in case of very senior citizens to Rs. 50000. It is also proposed to cover proportionate deduction each year in case of single premium policy covering a period of more than one year
- ii) W.e.f. Ay 2019-20



**9.2 Deduction for new employee (Sec 80JJA)**

- i) At present the deduction is available if the new employee is in service for 240 days in a year of employment. The qualifying number of days is 15 for apparel industry.
- ii) It is proposed in the budget to allow the benefit of deduction of cost of new employees even if they are in service for less than 240 days in the year of joining but have continued in the employment in the next year and has fulfilled the condition of no of days of service in next year. The deduction will begin from next year as if he is employed in next year. The benefit of lower qualifying number of days of 150 is also proposed to be extended to footwear and leather industries.
- iii) Wef Ay 2019-20

**9.3 Specified Diseases and Ailments for the purpose of Deduction (Sec 80DDB)**

- i) In case of senior citizen and very senior citizen , a deduction of Rs. 60,000 and 80,000 is available if they have incurred expenditure on medical treatment for specified diseases and ailments
- ii) It is proposed to increase this limit to Rs. 1 lakh in case of both the categories of senior citizens
- iii) Wef Ay 2019-20

**9.4 Deduction on Interest earned (Sec 80TTB)**

- i) A new section 80TTB proposed to be introduced to exempt interest on deposits by senior citizens from income tax up to a limit of Rs. 50,000. This will include deposit with banks, co-operative society engaged in banking business and with post office.
- ii) Wef Ay 2019-20

**9.5 Deductions from income chargeable under Salary (Sec 16)**

- i) It is proposed to give the standard deduction of Rs. 40,000 from the salary income and it is proposed to withdraw exemption in respect of transport allowance and reimbursement of medical expenditure of Rs. 15,000.
- ii) Wef Ay 2019-20

**9.6 Deduction to farm producer companies (Sec 80PA)**

- i) Section 80P at present gives hundred percent tax exemption on profits of co-operative societies from primary agricultural activities which are done for their members.

Similar exemption is proposed to be given by introduction of new section 80PA to farm producer companies having turnover less than 100 crores and if income is earned from certain prescribed primary agricultural activities. The deduction will be available for a period of 5 years

- ii) Wef A.Y.2019-20

**9.7 Special Provision in respect of Specified Businesses (Sec 80IAC)**

- i) The start-up units engaged in innovation and development enjoy tax exemption in respect of their profits for 3 years out of the 7 years subject to fulfillment of certain conditions. It is proposed in the budget to expand the scope of this exemption by making following changes (Wef A.Y. 2018-19)
  - a. The tax benefit will be available for units incorporated after 01/04/19 but before 01/04/21. As per existing provisions, the period was to end on 31/03/19.
  - b. The turnover of the start-up should not exceed 25 crores of rupees in 7 years from the date of its incorporation
  - c. Eligible business would mean innovation, development, improvement of products or processes or services, a scalable business model with the high potential of employment generation or Wealth creation

**9.8 Deduction for certain incomes to be allowed (Sec 80AC)**

- i) The present section covers following types of income as referred to in respective sections , for which filing of return before the due date u/s139 (1) is mandatory to claim tax deductions
  - a. 80IA profit and gains from infrastructure development
  - b. 80IAB Profits from SEZ development
  - c. 80IB profit and gains of certain industrial undertakings other than infrastructure development undertakings
  - d. 80IC profits of certain undertakings in certain special category states
  - e. 80ID profits from business of hotels and convention in specified area
  - f. profit of certain undertakings in North Eastern States
- ii) It is proposed in the budget to cover income is referred to in chapter VI under headings C – deduction in respect of certain incomes. This covers an entire class of incomes for which deduction is available from gross total income.
- iii) Wef 2018-19

**10. TDS Provisions****10.1 TDS on Gov.Saving Bond (Sec. 193)**

- i) Government of India has discontinued existing 8% savings (taxable) bonds 2003 with a new 7.75% GOI savings (taxable) bond 2018. Regarding TDS it is provided that interest on such bonds will be liable to TDS at the time of making payment and not at the time of accrual.
- ii) Wef 01-4-2018

**11. Amendments relating to Income Computation and Disclosure Standards(ICDS)**

- i) Present section 145 refers to the method of accounting to be followed by the assessee in computing income under the head business or profession and income under the other sources and it also makes the computation subject to sec 145(2) which refers to ICDS to be notified by the government. There are

ten ICDS notified by the government and have been made mandatory for computation of income under the above heads. However the judicial pronouncements have cast doubt about authority of the ICDS which are declared through notification without any changes in the act itself.

ii) It is proposed in the budget to confer legal sanctity to the authority of the ICDS by enacting relevant provisions about applicability of the ICDS in the computation of income under the head profit and gains of business or profession or other sources in the income tax act itself. Present section 145 is also proposed to be substituted by new section 145A and 145B and sections 36 and section 40 A are to be amended. New sections are 43AA and 43C are also proposed to be inserted. In nutshell Following changes are proposed.

a. A marked to market loss or the expected loss computed as per ICDS shall be allowed under section 36. Section 40 A to be amended to provide that no deduction in respect of marked to market loss or for other expected loss will be allowed except as provided in section 36.

b. Any gain or loss arising due to effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be computed as per ICDS however this will be subject to provisions of section 43A referring to the giving effect to fluctuations in foreign exchange rates in connection with liability incurred towards the cost of acquisition of asset or in capital expenditure as the case may be. at the time of making payment for the same

c. profits or gains arising from a construction contracts or service contracts shall be computed on the basis of percentage completion method except for a few exceptions. The contract revenue shall be inclusive of retention money and will not be reduced by incidental receipts like interest, dividend and capital gains.

d. Valuation of inventory will be made as per ICDS.

e. Valuation of sale, purchase of goods or services and of inventory shall be inclusive of tax, duty, cess or fee paid or incurred by the assessee to bring the goods or services to its conditions and place of location on the date of valuation .

f. Valuation of the listed and unlisted securities shall be made in the manner provided in ICDS

g. Section 145B is introduced to provide for taxability of interest on compensation or enhanced compensation on receipt basis, which is similar to existing provisions. Eligibility of claim for escalation of price in the contract or export incentives will be with reference to the previous year in which there happens a reasonable certainty of its realization. Taxability of income in the form of subsidy or grant or cash incentive or duty drawback referred to as income, in section 2 (24)(xviii) will be on receipt basis.

iii) W.e.f. A.Y. 2017-18

## **12. Income tax return filing, processing, assessment**

### **12.1 E assessment**

i) At present scrutiny assessment u/s 143(3) is made by calling for evidence in support of the return filed and any other evidence as the assessee may be required to produce. The whole process is manual at present. However the E-assessment process has been initiated on a trial basis in some cities to achieve transparency and efficiency and accountability.

ii) It is proposed in the budget to insert a new sub section 3A specially referring to formulating a scheme of electronic assessment for achieving the objectives of efficiency, transparency and accountability.

iii) WEF A.Y. 2018-19

**12.2 Prima Facie Adjustment while Processing of Return**

- i) Section 143 (1) provides for processing of income tax returns filed u/s 139. As per the present provisions while processing the return, certain prima facie adjustments can be made. One such adjustment is addition of income in case of mismatch between figure of income reported in Form 26AS or Form 16A or form 16 and the figure of income reported in the income tax return
- ii) It is proposed in the budget that no such adjustment shall be made after 01/04/2018.
- iii) Wef A.Y. 2018-19

**13 Penalty Provisions****13.1 Prosecution for failing to file return (Sec 276CC)**

- i) Present provisions provide for prosecution in the case of tax payer who has wilfully failed to furnish his tax return before due date however if tax payable by him net of advance tax and the tax deducted at source is less than Rs. 3000 then the prosecution would not be initiated against him.
- ii) It is proposed in the budget to amend the provisions of this section to provide that it will not be applicable in case of company.
- iii) Wef A.Y. 2018-19

**13.2 Failure to furnish statement of financial transaction or reportable account (Sec 271FA)**

- i) It is proposed to increase the penalty for failing to furnish such statements within the prescribed time from Rs. 100 to 500 per day of default and penalty for failing to furnish the statement within the period given in the notice issued u/s 285BA(5) from Rs. 500 Rs. 1000 per day of default.
- ii) W.e.f. 01-04-2018

**14 Miscellaneous****a) PAN (Permanent Account Number)**

- i) At present sec 139A requires certain persons to apply for PAN if they are not allotted PAN and they are required to apply to the Assessing officer for allotment of PAN.
- ii) It is proposed in the budget to cover non-individual entities entering into financial transactions aggregating to Rs. 2.5 lac in a financial year to apply for PAN if they are not allotted PAN. It is also proposed to require directors, partners and trustees, founders, authors and others who are competent to act on behalf of such entities to comply with the same requirement of obtaining PAN.
- iii) Wef A.Y. 2018-19

**b) Accumulated profits in the hands of Amalgamated company 2(22)**

- i) As per section 2(22) in the calculation of deemed dividend it is the amount of accumulated profits available with the Company which is taken into consideration.
- ii) It is proposed in the budget to provide that the accumulate profit of the amalgamating company will be included in the amalgamated company's profit on the date of amalgamation ,to prevent companies to adopt amalgamation route to reduce the profit in the hands of amalgamated company.
- iii) Wef A.Y. 2018-19

**c) Income of Foreign company from storage / sale of crude oil Sec 10 (48A)**

- i) Income of foreign companies from storage/sale of crude oil is exempt if it is in accordance with agreement /arrangement approved and notified by the central government.
- ii) It is proposed in the budget to cover sale of crude oil out of leftover stock, after termination of agreement or arrangement.
- iii) wef Ay 2019-20

d) Carry Forward & Set off of Loss

- i) Section 79 for the purpose of carry forward and set off of loss requires maintaining same beneficial ownership of shares in the year of loss and in the year of set off.
- ii) It is proposed to relax this condition in the case of companies whose resolution plan is approved under insolvency and bankruptcy court 2016.
- iii) Wef 2018-19

e) Commodity transaction Tax (CTT)

- i) As per section 116 of the Finance act 2013, the definition of taxable commodities transactions means transaction of sale of derivatives.
- ii) It is proposed to be amended to include “options” in commodity futures. Section 117 of the said Act is also amended to provide for rates for sale of an option on derivatives, including when such option is exercised, and further, the amendment provides for payment of tax by sellers.

f) Section 46 of the (Black Money Undisclosed Foreign Income and Assets) and imposition of tax at 2015

- i) Section 46 of the (Black Money Undisclosed Foreign Income and Assets) and imposition of tax at 2015 provides for imposition of penalty. As per the said section order of penalty requires approval of the Joint Commissioner.

Section 55 of the said Act provides for an institution of proceedings by the prescribed income tax authorities under the act. Such proceedings can be initiated with the sanction of principal Commissioner or Commissioner or Commissioner (appeal). It is also provided that principal chief commissioner or chief commissioner may issue instructions on directions to those prescribed authorities regarding institution of proceedings.

- ii) It is proposed in the budget to give such power to Joint Director also for Section 46. It is proposed in the budget to empower Principal Director-



General or Director-General to issue instructions or directions to the tax authorities for the purpose of sec 55.

iii) Wef AY 2018-19

g) Section 286 refers to a special reporting regime in case of International group

i) It is proposed by way of a clarificatory amendment to extend period of filing of Country by country report(CbCr) by Parent entity or alternate reporting entity or constituent entity resident in India to 12 months from the end of reporting accounting year. It is also proposed to provide that time limit for filing of report by ARE which is resident of other country will be as per the law of that country. There are also amendments defining words agreement and reporting accounting year.

ii) Wef A.Y. 2017-18

h) 5 % variation wrt. Stamp duty value (amendments to Sec 43CA,50C,56)

i) As per the above sections in case of transactions of sale or purchase of immovable properties if transaction value is less than stamp duty valuation then the difference is liable to be taxed as income in the hands of seller as capital gain u/s 50C if the asset is capital asset or as business profit under section 43 CA if asset is business asset and is also liable to tax in the hands of purchaser as other source income u/s 56.

ii) It is proposed in the budget to allow for 5% variation in the price of stamp duty value and transaction value. Therefore to the extent of variation up to 5% of sale consideration, the above deeming provisions will not be attracted.

iii) Wef A.Y. 2019-20

i) Sec 56(2)(x), Clause (X) to Proviso Transfer between Holding & Subsidiary

‘ii) Certain transfers of asset between holding company and its hundred percent subsidiary company is tax free as per section 47 and are not liable to

capital gains tax. However such transfers are not excluded from the purview of section 56 -other source income which imposes tax on transfer of assets without consideration or for inadequate consideration

iii)it is proposed to amend section 56 provide that such transfers shall not be liable to tax under section 56

ii) Wef 2019-20

j) Tax Exemption to certain body, authority, board or trust or commission Sec 10(46)

i) At present income of any body, authority, board or trust or commission which is established or constituted by central or state or provincial government and which fulfils certain other conditions can be notified as tax-free. However instead of notifying each case as tax-free it is proposed to empower the government to notify income of a class of such entities as tax-free.

ii) Wef 1-4-2018

k) Amendments to provisions relating to structure of authority for advance rulings section 245-O

i) Authority for advance rulings section 240\_O contains provisions for constitution of authority for advance rulings as well as its benches for giving advance rulings under specific chapters of income tax act as well as other specified enactments like custom, excise etc..

ii) It is proposed to amend the said provision providing that authority referred to in section 245-O shall cease to be an authority for advance rulings for matters covered by custom act 1962 and shall be appellate authority under the said Act. There are also some consequential amendments made in the sec 245-O.

iii) Wef 1-4-2018

l) Appeal against penalty u/s 271J for incorrect information in the report or certificate

Present provisions u/s 271J empowers assessing officer or Commissioner(Appeal) to initiate penalty proceedings for incorrect information found by him in any report or certificate issued by certain professionals. There is a right of appeal against such order before appellate tribunal .It is proposed in the budget to make order passed by CIT (Appeals), appealable before appellate tribunal.