UNDERSTANDING THE UNION BUDGET PROPOSALS 2018

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The year 2017-18 was a unique year for the Indian economy. The year ushered in two major reforms which have the potential to transform India. The first was the introduction of the Goods and Service Tax (GST) and this was followed by the operationalization of the Insolvency and Bankruptcy Code. While both these major changes have been brought in during the year the results are slow in coming. The introduction of GST was not a smooth operation. There were too many rates, too many separate jurisdictions and legislations resulting in multiple filing and large number regulatory/compliance requirements. There were also initial technical difficulties. The good news is that most of these issues have been taken seriously and are getting sorted out. GST is already showing results with large number of new registrations and it is hoped that GST will help to spread the boundaries for the formal economy.

The rise in number of indirect tax payers shows a movement towards integration of the informal sector with the rest of the economy. The Insolvency and Bankruptcy Code is very new in its operations and it is not yet known whether the resolution of distressed assets will be satisfactory to the bankers or whether the bankers will face large losses or whether too much liquidation will further disrupt the economy.

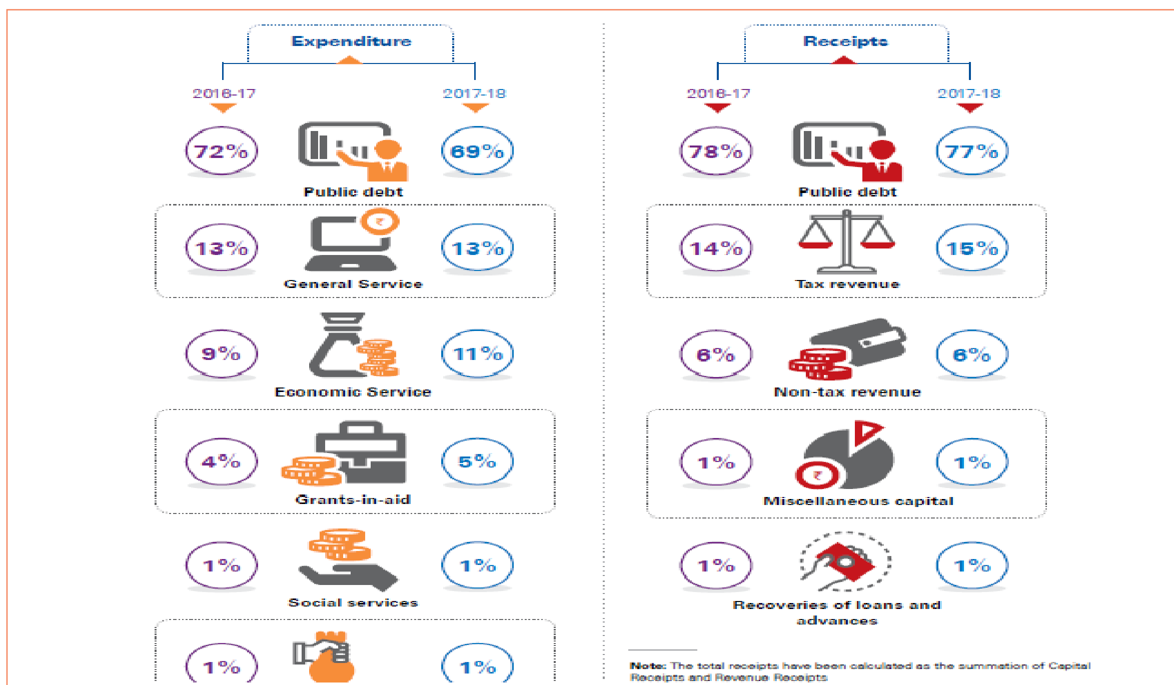
Growth in the Indian Economy – an analysis

The data presented by the Economic Survey points to slowing down of growth. The GDP growth rate is estimated at 6.5%, down from 7.1% in 2016-17. The growth in industrial production upto November, 2017 has slowed down to 3.2% as compared to 4.16% growth during 2016-17. The growth in electricity generation upto November, 2017 is down to 3.3% as compared to 5.8% growth during 2016-17. The growth rate in manufacturing for 2017-18 is down to 4.6% as compared to 7.9% growth during 2016-17.

The only two sectors which have shown rise in growth rate are mining and construction which have staged recoveries form the distressed figures of 2016-17. Flow of bank credit and alternative sources of credit to industry has shown negative growth of 1.5% during April to December, 2017.

The Economic Survey of 2018 highlights several challenges in the way of acceleration of growth. Firstly it is seen that the gross capital formation rate which had climbed from 26.5% of GDP in 2003 to 35.6% of GDP in 2007 languished at 26.4% of GDP during 2017. Similarly, domestic savings rate in 2017 was below the 2003 rate. The slowdown in investment was caused by the private/corporate sector staying away from new investments.

Union Budget Financials Review



Economic Survey Analysis - Highlights

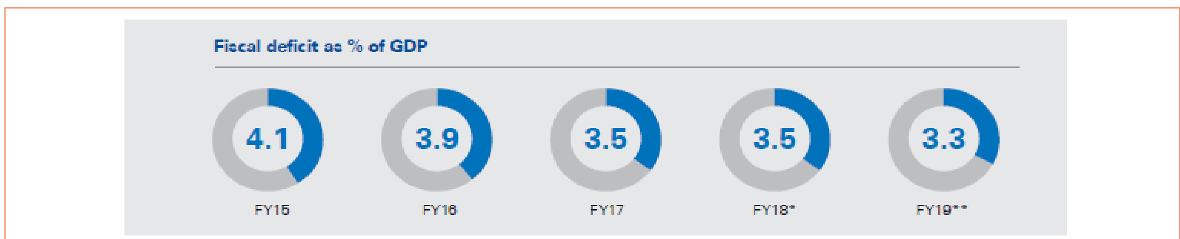
The Survey frankly admits that recovery in investments will not be fast. The question which remains unanswered in the Survey is in spite of the improvement in India's ranking in the Global Ease of Doing Business Index, inspite of the sustained Make In India campaign, inspite of the improvement in India's sovereign credit rating why is the private sector shying away from investing in India. The Survey also identifies further challenges of rising food prices, vulnerabilities in capital and current accounts deficits and the continuing crisis in the banking industry. The Survey also points out that major economies in the world are turning their back on globalization. This can only slow down India's exports as has been happening in IT exports. The Survey mentions the enormous task of upgrading our labour force to the demands of a technology intensive work place. The Survey also frankly admits challenges of agricultural stress which is ascribed to climate change. Against the above portrayal of the economic scenario the survey identifies the tasks in the short and in the medium term. The immediate tasks are seen as stabilizing GST and setting right the distress in the corporate and banking Balance Sheets. In the medium term the tasks identified by the Survey are to accelerate job creation, improve education, alleviate farm distress, increase export and improve private investment.

The Budget 2018 is an overwhelmingly populist budget. It has made major announcements of social welfare schemes. Some of the important announcements are –

- National Health Protection Scheme to cover over 10 crore poor families providing coverage upto ₹5 lakh per family every year for hospitalization in secondary and tertiary care hospitals.
- Opening 1.5 lakh Health Care Centres.
- Upgrading District Health Centres and opening 24 new Medical Colleges and Hospitals.
- Giving gas connections to 8 crore poor women.
- Granting more electricity connections to poor rural households.
- Expanding the scope of Prime Minister Awas Yojana for building houses for poor people.

There are also announcements of allowing fixed term employment for all sectors. Once this comes job creation will be encouraged. The Govt. will also contribute 12% of wages as EPF of all employees in all sectors for three years.

There are many such announcements including fixing of MSP at remunerative rates for covering more crops than were covered earlier. It is however seen that in spite of such large outlay on welfare schemes the Government budgeted revenue deficit for 2018-19 will remain below the revenue deficit for 2017-18. This is because of sharp increase in taxation and other receipts. The budgeted fiscal deficit is projected at 3.3% of GDP for 2018-19 as compared to 3.5% of GDP in 2017-18. In absolute figures, the fiscal deficit will go up by ₹30,000 crore.



There are no major changes in indirect tax except for increase in customs duty for certain items. As rationalization of GST will be taken care of by the GST Council, these are not dealt with in the Budget and since almost all the other indirect taxes are now covered by GST there is not much on indirect taxes in the budget.

There are some changes in Direct Taxes. The major ones are:

- Long term capital gains on profits derived from equity market over ₹1,00,000/- to be taxed at 10%. However, market price on 31st January, 2018 will be the deemed cost;
- Long Term Capital Gain Tax @ 10% on the distribution by equity oriented mutual funds;
- Disallowance of cash payments above ₹10,000/- by Trusts and Institutions;
- Increase in the rate of Cess on income tax from 3% to 4%;
- Concessional rate of Income Tax of 25% plus enhanced cess has been made applicable to companies with turnover up to ₹250 crore.

For individuals, there is no major change. However, for salaried employees the standard deduction has been brought back in lieu of present exemption in respect of transport allowances and reimbursement of medical expenses. There is also some relief for senior citizens. The details of tax proposals are explained hereafter.

Direct Tax Proposal
Rates of Tax

1. Slab of income

The revised tax rates with corresponding income slabs are given below:

i. INDIVIDUAL, HUF, ETC. (Men and women below 60 years of age)

No tax is payable on income up to Rs. 2,50,000/-

Income Slab	Pre Budget tax rate	Post Budget tax rate
250001-500000	5%	No Change
500001-1000000	20%	
1000001 & above	30%	

ii. SENIOR CITIZENS (above the age of sixty years)

No tax is payable on income up to Rs. 3,00,000/-

Income Slab	Pre Budget tax rate	Post Budget tax rate
300001-500000	5%	No Change
500001-1000000	20%	
1000001 & above	30%	

iii. SUPER SENIOR CITIZENS (above the age of eighty years)

No tax is payable on income up to Rs. 5,00,000/-

Income Slab	Pre Budget tax rate	Post Budget tax rate
500001-1000000	20%	No Change
1000001 & above	30%	

Surcharge for Individual

The amount of income tax shall be increased by a surcharge at the following rates:

Rate	Income
10%	Exceeding Rs. 50 lakhs but not exceeding Rs. 1 crore
15%	Exceeding Rs. 1 crore

There is no change in the surcharge.

Cess:

Education Cess@ 2% and Secondary & Higher Education Cess @ 1% are to be discontinued. A new cess in the name of "Health and Education Cess" @ 4% will be levied. The cess is calculated on the tax payable.

iv. **Corporate Tax**

- **Domestic Company**

Particulars	Existing		Post Budget	
	Turnover< Rs.50 crore	Turnover> Rs.50 crore	Turnover< Rs250 crore	Turnover> Rs.250 crore
Corporate Tax	25%	30%	25%	30%

Surcharge:

The amount of income tax shall be increased by a surcharge at the following rates:

Rate	Income
7%	Exceeding Rs. 1 crore but not exceeding Rs. 10 crores
12%	Exceeding Rs. 10 crores

There is no change in the surcharge.

Cess:

Education Cess@ 2% and Secondary & Higher Education Cess @ 1% are to be discontinued. A new cess in the name of "Health and Education Cess" @ 4% will be levied. The cess is calculated on the tax payable.

- **Foreign Company**

Particulars	Existing		Post Budget	
	Income < Rs.10 crore	Income > Rs.10 crore	Income < Rs.10 crore	Income > Rs.10 crore
Corporate Tax	40%	40%	Remain unchanged	
Surcharge	2%	5%		

Cess:

Education Cess@ 2% and Secondary & Higher Education Cess @ 1% are to be discontinued. A new cess in the name of "Health and Education Cess" @ 4% will be levied. The cess is calculated on the tax payable.

2. Widening of scope of Accumulated profits for the purposes of Dividend (Section 2(22))

It is proposed to amend the definition of 'accumulated profits'. It was noticed that several companies were resorting to various arrangements to reduce their accumulated profits, such as adopting the amalgamation route (e.g., merging a profitable company into a loss-making company), and thereby stepping out of the purview of the deemed dividend provisions.

A new Explanation 2A will be inserted in clause (22) of section 2 of the Act to widen the scope of the term 'accumulated profits' so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalized or not, or losses as the case may be, shall be adjusted by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

3. Application of Dividend Distribution Tax to Deemed Dividend (Section 115O read with section 2(22))

At present deemed dividend under sub-clause (e) of clause (22) of section of 2 the Act is taxed in the hands of the recipient. The taxability of deemed dividend in the hands of recipient has posed serious problem of the collection of the tax liability and has also been the subject matter of extensive litigation. It is proposed to delete the Explanation to Chapter XII-D occurring after section 115Q of the Act so as to bring deemed dividends also under the scope of dividend distribution tax under section 115-O. Further, such deemed dividend is proposed to be taxed at the rate of 30% (without grossing up) in order to prevent camouflaging dividend in various ways such as loans and advances. Such dividends would not be further taxable in the hands of the recipient shareholder.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

4. Royalty and Fees for Technical Services payment by National Technical Research Organization (NTRO) to a non-resident to be tax-exempt (Section 10)

It is proposed to amend section 10 so as to provide that the income arising to NTRO by way of royalty from, or fees for

technical services rendered in or outside India will be exempt from income tax. Consequently, NTRO will not be required to deduct tax at source on such payments.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

5. Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers (Section10)

Under the existing provisions of the clause (12A) of section 10 of the Act, 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. This exemption is not available to non-employee subscribers. In order to provide a level playing field, it is proposed to amend clause (12A) of section 10 of the Act to extend the said benefit to all subscribers.
Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

6. New regime for taxation of long-term capital gains on sale of equity shares etc. (Section 10(38) and newly inserted section 112A).

As per the existing provisions of Income Tax Act, long-term capital gains (LTCG) arising from the transfer of listed equity shares, or units of an equity-oriented fund (EOF) or business trust (sold on the floor of a recognized stock exchange) is exempted so long as Securities Transaction Tax (STT) has been paid on such a transaction. It is proposed to tax LTCG in excess of ₹1.00 lacs (i.e. when the capital asset is held for a period of more than 12 months) arising to all investors including foreign portfolio investors from the transfer of listed equity shares or units of an EOF or business trust at the rate of 10%, provided that STT is paid --

(i) at the time of acquisition and transfer of equity shares; and
(ii) at the time of transfer of EOF and business trust units.

Further, sub-section (4) of the new section 112A empowers the Central Government to specify by notification the nature of acquisitions in respect of which the requirement of payment of securities transaction tax shall not apply in the case of equity share in a company. Similarly, the requirement of payment of STT at the time of transfer of long term capital asset, being a unit of equity oriented fund or a unit of business trust, shall not apply if the transfer is undertaken on recognized stock exchange located in any International Financial Services Centre (IFSC) and the consideration of such transfer is received or receivable in foreign currency.

Further, the new provision of section 112A also proposes to provide the following:-

i. The long term capital gains will be computed without giving effect to the first and second provisos to section 48, i.e. inflation indexation in respect of cost of acquisitions and cost of improvement, if any, and the benefit of computation of capital gains in foreign currency in the case of a non-resident, will not be allowed.
ii. The cost of acquisitions in respect of the long term capital asset acquired by the assessee before the1st day of February, 2018 , shall be deemed to be the higher of –
    a) the actual cost of acquisition of such asset; and
    b) the fair market value of such asset
iii. Fair market value has been defined to mean –
    a) in a case where the capital asset is listed on any recognized stock exchange, the highest price of the capital asset quoted on such exchange on the 31st day of January, 2018. However, where there is no trading in such asset on such exchange on 31.01.2018 , the highest price of such asset on such exchange on a date immediately preceding 31.01.2018 when such asset was traded on such exchange shall be the fair market value; and
    b) in a case where the capital asset is a unit and is not listed on recognized stock exchange, the net asset value of such asset as on 31.01.2018.

7. Tax deduction at source and manner of payment in respect of certain exempt entities (Section11)

Currently, the income of trusts and institutions is exempt if they utilize their income towards their objects in accordance with the relevant provisions of the Income-tax Act. However, there is no restriction on these entities incurring expenditure in cash. In order to have audit trail of the expenses incurred by these entities, it is proposed that payments exceeding `10,000/- in cash made by such entities shall be disallowed and the same shall be subject to tax. Further, in order to improve TDS compliance by these entities, it is proposed to provide that in case of non-deduction of tax, 30% of the amount of expenditure shall be disallowed and the same shall be taxed.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

8. Standard deduction on salary income (Section 16)

It is proposed to allow a standard deduction upto ₹40,000/- or the amount of salary received, whichever is less. The present exemption in respect of Transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses is proposed to be withdrawn.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

9. Taxability of compensation in connection to business or employment (Section 28 and 56)

It is proposed to amend section 28 of the Act to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to business shall be taxable as business income. It is further proposed that any compensation received or receivable, whether in the nature of revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to employment shall be taxable under section 56 of the Act.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

10. Rationalization of provision relating to conversion of stock-in-trade into Capital Asset (Section 28, Section 2 and Section 49)

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.

In order to provide symmetrical treatment and discourage the practice of deferring the tax payment by converting the inventory into capital asset, it is proposed to amend the provisions of -

(i) section 28 so as to provide that any profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset shall be charged to tax as business income. It is also proposed to provide that the fair market value of the inventory on the date of conversion or treatment determined in the prescribed

manner, shall be deemed to be the full value of the consideration received or accruing as a result of such conversion or treatment;

(ii) clause (24) of section 2 so as to include such fair market value in the definition of income;

(iii) section 49 so as to provide that for the purposes of computation of capital gains arising on transfer of such capital assets, the fair market value on the date of conversion shall be the cost of acquisition;

(iv) clause (42A) of section 2 so as to provide that the period of holding of such capital asset shall be reckoned from the date of conversion or treatment.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

11. Amendments in relation to notified Income Computation and Disclosure Standards. (Section 36, Section 40A, Section 43AA, Section 43CB, Section 145A)

In order to bring certainty in the wake of recent judicial pronouncements on the issue of applicability of ICDS, it is proposed to make the following changes -

(i) **Marked to market loss deduction-** amend section 36 of the Act to provide that marked to market loss or other expected loss as computed in the manner provided in income computation and disclosure standards notified under sub-section (2) of section 145, shall be allowed deduction.

(ii) **Marked to market loss non-deduction-** amend 40A of the Act to provide that no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except as allowable under newly inserted clause (xviii) of sub-section(1) of section 36.

(iii) **Foreign Exchange Gain/ Loss**- insert a new section 43AA in the Act to provide that, subject to the provisions of section 43A, 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 orloss, which shall be computed in the manner provided in ICDS as notified under sub-section (2) of section 145.

(iv) **Construction contract**- insert a new section 43CB in the Act to provide that 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, and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.

Profits and gains of business or profession - amend section 145A of the Act to provide that, for the purpose of determining the income chargeable under the head "Profits and gains of business or profession,-

(a) the **valuation of inventory** shall be made at lower of actual cost or net realizable value computed in the manner provided in income computation and disclosure standards notified under (2) of section 145.

(b) the **valuation of purchase and sale of goods or services and of inventory** shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.

(c) inventory being **securities not listed, or listed but not quoted, on a recognized stock exchange**, shall be valued at actual cost initially recognized in the manner provided in income computation and disclosure standards notified under (2) of section 145.

(d) inventory being **listed securities**, shall be valued at lower of actual cost or net realizable value in the manner provided in income computation and disclosure standards notified under (2) of section 145 and for this purpose the comparison of actual cost and net realizable value shall be done category-wise.

a. insert a new section 145B in the Act to provide that :**interest** received by an assessee **on compensation or on enhanced compensation**, shall be deemed to be the **income of the year in which it is received**.

b. the claim for **escalation of price in a contract or export incentives** shall be deemed to be the **income of the previous year in which reasonable certainty of its realization is achieved**.

c. income referred to in sub-clause (xviii) of clause (24) of section 2 **[assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement]** shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year. Recent judicial pronouncements have raised doubts on the legitimacy of the notified ICDS. However, a large number of taxpayers have already complied with the provisions of ICDS for computing income for assessment year 2017-18.

Applicability: Retrospectively with effect from 1st April, 2017 i,e A.Y.2017-18.

12. Tax treatment of transactions in respect of trading in agricultural commodity derivatives (Section 43)

In order to encourage participation in trading of agricultural commodity derivatives, it is proposed to amend the provisions of clause (5) of section 43 to provide that a transaction in respect of trading of agricultural commodity derivatives, which is not chargeable to CTT, in a registered stock exchange or registered association, will be treated as non-speculative transaction.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

13. Rationalization of section 43CA, section 50C and section 56.

At present, while taxing income from capital gains (section 50C), business profits (section 43CA) and other sources (section 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. It has been pointed out that this variation can occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location. In order to minimize hardship in case of genuine transactions in the real estate sector, it is proposed 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.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

14. Presumptive income under section 44AE in of Joint Director or Additional Director for imposition of penalty **case of goods carriage.**

It is proposed to amend the section 44AE of the Act to provide that, in the case of heavy goods vehicle (more than 12MT gross vehicle weight), -

- the income would deemed to be an amount equal to ₹1,000/- per ton of gross vehicle weight roulade weight, as the case may be, per month or part of a month for each goods vehicle; or

- the amount claimed to be actually earned by the assessee ----- whichever is higher.

The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

15. Rationalization of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (Section 46 and Section 55)

Section 46 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for the procedure for imposing penalty.

Sub-section (4) of the said section provides that an order imposing a penalty shall be made with the approval of the Joint Commissioner, in the circumstances specified therein.

The Assistant Director or the Deputy Director, investigating a case of undisclosed foreign income or asset, can also be assigned the concurrent jurisdiction of the Assessing Officer and, therefore, can also initiate penalty. However, the said authorities shall require approval of the superior officers of the rank. Accordingly, it is proposed to amend the said sub-section so as to provide that the Joint Director shall also be vested with the power to approve an order imposing a penalty. It is also proposed to amend clause (b) of the said sub-section so as to include reference to the Assistant Director and Deputy Director therein.

Section 55 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for institution of proceedings for an offence under that Act. Sub-section (1) of the said section provides that a person shall not be proceeded against for an offence under section 49 to section 53 except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals).

Sub-section (2) of the said section provides that the Principal Chief Commissioner or the Chief Commissioner may issue such instructions, or directions, to the tax authorities referred to in sub-section (1), as he may think fit for the institution of proceedings. It is proposed to amend the said sub-section so as to empower the Principal Director General or the Director General also to issue instructions or directions to the tax authorities under the said sub-section. It is also proposed to amend the marginal heading of the said section accordingly so as to include the reference of Principal Director General or Director General.

Applicability: From 1st April, 2018

16. Measures to promote International Financial Services Centre (IFSC) (Section 47, 115JC and115JF)

In order to promote the development of world class financial infrastructure in India, it is proposed to amend section 47 of the Act so as to provide that transactions in the following assets, by a non-resident on a recognized stock exchange located in any International Financial Services Centre shall not be regarded as transfer, if the consideration is paid or payable in foreign currency:-

i. bond or Global Depository Receipt, as referred to in sub-section (1) of section 115AC; or
ii. rupee denominated bond of an Indian company; or
iii. derivative.

Section 115JC of the Act provides for alternate minimum tax at the rate of 18.50% of adjusted total income in the case of a non-corporate person. In order to promote the development of world class financial infrastructure in India, it is further proposed to amend the section 115JC so as to provide that in case of a unit located in an International Financial Service Center, the alternate minimum tax under section 115JC shall be charged at the rate of 9%.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

17. Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement (Section 48B)

It is proposed to amend clause (48B) of section 10 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.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

18. Rationalization of the provisions of section 54EC

Currently, reinvestment of capital gains arising on transfer of any long-term capital asset into bonds issued by the National Highways Authority of India or Rural Electrification Corporation Limited are exempt, provided such bonds are redeemable after 3 years.

It is proposed to restrict such benefit to capital gains arising on transfer of capital assets being 'land or building or both' and not to other capital assets. Further, the Bill proposes to extend the period of redemption to 5 years for the exemption to apply.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

19. Tax neutral transfers (Section 56)

Currently, capital gains arising from transfer of capital assets between holding companies and their wholly owned subsidiaries (WOS) are exempt from capital gains tax for the transferor. However, the exemption did not achieve its purpose as there is no corresponding relief for the transferee from the applicability of fair value-based taxation for acquisition of assets at less than FMV. In order to further facilitate the transaction of money or property between a wholly owned subsidiary company and its holding company, it is proposed to amend the section 56 so as to exclude such transfer from its scope.

Applicability: From 1st April, 2018

20. Benefit of carry forward and set off of losses (Section 79 and section 140)

Section 79 of Act provides that carry forward and set off of losses in a closely held company shall be allowed only if there is continuity in the beneficial owner of the shares carrying not less than 51 percent of the voting power, on the last day of the year or years in which the loss was incurred. It is proposed to relax the above rigors of section 79 in case of a company seeking insolvency resolution and the resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016 It is also proposed to amend section 140 of the Act so as 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.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

21. Deductions in respect of certain incomes not to be allowed unless return is filed by the due date (Section 80AC)

The existing provisions contained in the section 80AC of the Act provide 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. This burden is not cast upon assesses claiming deductions under several other similar provisions.

In view of the above, it is proposed to extend the scope of section 80AC to provide that the benefit of deduction under the entire class of deductions 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.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

22. Deductions available to senior citizens in respect of health insurance premium and medical treatment (Section 80D)

It is proposed to amend section 80D so as to raise this monetary limit of deduction from ₹30,000/- to ₹50,000/-. It is also 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.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

23. Enhanced deduction to senior citizens for medical treatment of specified diseases (Section80DDB)

It is proposed to amend the provisions of section 80DDB of the Act so as to raise this monetary limit of deduction to ₹1,00,000/- for both senior citizens (earlier ₹60,000/-) and very senior citizens(earlier ₹80,000/-).

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

24. Deduction in respect of income of Farm Producer Companies (Section 80P)

Section 80P provides for 100% deduction in respect of profit of cooperative society which provides assistance to its members engaged in primary agricultural activities.
It is proposed to extend similar benefit to Farm Producer Companies (FPC), having a total turnover upto ₹100 Crore, whose gross total income includes any income from the marketing of agricultural produce grown by its members, or ii. the purchase of agricultural implements, seeds, livestock or ther 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.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

25. Measures to promote start-ups (Section 80IAC)

In order to improve the effectiveness of the scheme for promoting startups in India, it is proposed to make following changes in the taxation regime for the startups:-

i. The benefit would **also** be available to start ups incorporated on or after 01/04/2019 but before the 01/04/2021;
ii. The requirement of the turnover not exceeding ₹25 Crore would apply to seven previous years commencing from the date of incorporation;
iii. 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.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

26. Incentive for employment generation (Section 80JJA)

At present, under section 80-JJAA of the Act, 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. However, the minimum period of employment is relaxed to 150 days in the case of apparel industry. In order to encourage creation of new employment, it is proposed to extend this relaxation to footwear and leather industry.
Further, it is also proposed to rationalize this deduction of 30% by allowing the benefit 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.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

27. Deduction in respect of interest income to senior citizens (newly inserted Section 80TTB and section 194A)

It is proposed to insert a new section 80TTB so as to allow a deduction upto ₹50,000/- in respect of interest income from deposits held by senior citizens. However, no deduction under section 80TTA shall be allowed in these cases.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

It is also proposed to amend section 194A so as to raise the threshold for deduction of tax at source on interest income for senior citizens from ₹10,000/- to ₹50,000/-.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

28. Taxation of long-term capital gains in the case of Foreign Institutional Investor (Section115AD)

The existing provisions of section 115AD of the Act inter alia, provide that where the total income of a Foreign Institutional Investor (FII) includes income by way of long-term capital gains arising from the transfer of certain securities, such capital gains shall be chargeable to tax at the rate of ten per cent. However, long term capital gains arising from transfer of long term capital asset being equity shares of a company or a unit of equity oriented fund or a unit of business trusts is exempt from income-tax under clause (38) of section 10 of the Act.
Consequent to the proposal for withdrawal of exemption under clause (38) of section 10 of the Act, such long term capital gain will become taxable in the hands of FIIs also. As in the case of domestic investors, the FIIs will also be liable to tax on such long term capital gains only in respect of amount of such gains exceeding one lakh rupees. The provisions of section 115AD are proposed to be amended accordingly.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

29. Rationalization of provision of section 115BA relating to certain domestic companies (Section 115BA)

Section 115BA of the Act provides that the total income of a newly set up domestic company 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, shall, at its option, be taxed at the rate of 25 per cent. Subject to conditions specified therein. This benefit is available from assessment year 2017-18. However, there are certain incomes which are subject to tax at a rate which is lower or higher than 25%. Consequently tax payers have been subjected to unintended hardship or unwarranted relief. Accordingly it is proposed to amend section 115BA so as to clarify that the provisions of section 115BA is restricted to the income from the business of manufacturing, production, research or distribution referred to therein; and income which are at present taxed at a scheduler rate will continue to be so taxed.

Applicability: From 1st April, 2017 i.e. Assessment Year 2017-18.

30. Relief from liability of Minimum Alternate Tax (MAT) (Section 115JB) to companies applied for insolvency and certain Foreign companies

It is proposed to amend section 115JB to provide that the aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) shall be allowed to be reduced from the book profit, if a company's application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

Further, it is also proposed that section 115JB will be not be applicable to a foreign company engaged solely in the business of shipping, exploration of mineral oils, operation of aircraft or civil constructions in certain turnkey power projects.

Applicability: Retrospectively from 1st April, 2001 i.e. Assessment Year 2001-02.

31. Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund (Section 115R)

Currently, the IT Act specifies that a distribution tax shall be levied on specified companies and mutual funds making distributions to unit holders. Presently, income distributed by an EOF to its unit holders is expressly exempt from the levy of such tax.
It is proposed to amend the said section to provide that where any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional income-tax @10% on income so distributed. For this purpose, equity oriented fund will have the same meaning assigned to it in the new section 112A of the Act.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

32. Rationalization of the provisions relating to Commodity Transaction Tax (Section 117 and Section 118)

It is proposed to extend the applicability of Commodity Transaction Tax (CTT) to sale of option oncommodity derivatives as under:

- The seller requires to pay @ 0.05%; and
- The purchaser requires to pay @ 0.0001% where the option is exercised.

Currently, Commodities Transaction Tax (CTT) is levied on certain 'taxable commodities transactions' as defined.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

33. Entities to apply for Permanent Account Number in certain cases (Section 139A)

Currently, the IT Act mandates certain persons to obtain a unique tax identification number, i.e., permanent Account Number (PAN). PAN is required for all tax compliances, and is also required to be mandatorily quoted in documents relating to specified transactions such as dealings in immovable property, shares and securities, goods and services etc.
The Bill proposes to expand the category of persons that are required to obtain PAN to include a person, not being an individual, which enters into a financial transaction aggregating to INR 0.25 Mn or more in a year. Furthermore, the Bill also proposes that a 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 person should also obtain PAN.
Interestingly, this proposal seeks to cover only persons other than individuals (and individuals acting on behalf of such persons), but not individuals directly.

Applicability: From 1st April, 2018 i.e. Assessment Year 2018-19.

34. Appeal against penalty imposed by Commissioner (Appeals) under section 271J

Section 253 of the Act inter-alia provides that any assessee aggrieved by any of the orders mentioned in sub-section (1) of the said section may appeal to the Appellate Tribunal against such order. It is proposed to amend clause (a) of the said sub-section so as to also make an order passed by a Commissioner (Appeals) under section 271J appealable before the Appellate Tribunal.

Applicability: From 1st April, 2018

35. Rationalization of section 276CC relating to prosecution for failure to furnish return (Section 276CC)

The IT Act provides that any person willfully failing to furnish tax returns within the due date will be punishable with imprisonment for a term extending up to 7 years. Currently, an exception is provided in cases where the tax payable by such person, after considering advance taxes does not exceed INR 3,000.
In order to prevent abuse by shell companies or by companies holding Benami properties, it is proposed to amend the provisions of the said sub-clause so as to provide that the said sub-clause shall not apply in respect of a company.

Applicability: From 1st April, 2018

36. Rationalization of provisions relating to Country-by-Country Report (Section 286)
Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country by-

Country Report (CbCR) in respect of an international group. Based on model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organization for Economic Co-operation and Development (OECD) and others, following

amendments are proposed to be made so as to improve the effectiveness and reduce the compliance burden of such reporting:-

(i) the time allowed for furnishing the Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;

(ii) constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section(2) in the latter's country or territory;

(iii) the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be twelve months from the end of reporting accounting year;

(iv) the due date for furnishing of CbCR by the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;

Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1)of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and sub-section (4) as may be notified by the Central Government;

(v) "reporting accounting year" has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section(2) and sub-section (4).

Applicability: From 1st April, 2017 i.e. Assessment Year 2017-18.

37. Aligning the scope of "business connection" with modified PE Rule as per Multilateral Instrument (MLI).

Clause (i) of sub-section (1) of section 9 is being proposed to be amended to provide that" business connection" shall also 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

ii. 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

iii. for the provision of services by that non-resident.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

38. "Business connection" to include "Significant Economic presence"

The rise in e-commerce activities in India has led to the pressing need to amend tax laws to reinstate the equilibrium between brick and mortar and e-commerce players. With this objective in mind, the Bill proposes to introduce 'significant economic presence'.

"Significant economic presence" for this purpose, shall mean-

(i) 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

(ii) 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.

The proposed amendment in the domestic law will enable India to negotiate for inclusion of the new nexus rule in the form of 'significant economic presence' in the Double Taxation Avoidance Agreements. It may be clarified that the aforesaid conditions stated above are mutually exclusive. The threshold of "revenue" and the "users" in India will be decided after consultation with the stakeholders. Further, it is also clarified that unless corresponding modifications to PE rules are made in the DTAAs, the cross border business profits will continue to be taxed as per the existing treaty rules.

Applicability: From 1st April, 2019 i.e. Assessment Year 2019-20.

INDIRECT TAXES

A. CUSTOMS

1. The law is proposed to be amended to give extra-territorial jurisdiction in respect of offences committed outside India, and proposes to include non-resident offenders. The Amendment empowers the revenue department to launch proceedings, inter alia, against foreign suppliers for abetting duty evasion or circumvention of regulations.

2. The Amendment proposes to empower custom officers to undertake search of vessels and conveyances, confiscate goods, and arrest people in the Exclusive Economic Zone (EEZ) of India. The EEZ extends up to 200 nautical miles from the baseline. Earlier, such power was restricted to the Contiguous Zone of India, i.e.,24 nautical miles. This will prevent intrusion of hostile persons in the EEZ.

3. Various enactments of Parliament regulate the import and export of goods such as drugs cosmetics, food, pesticides etc. Further, the Foreign Trade Policy and Indian Trade Classification (Harmonized System) (ITC (HS)) issued under the Foreign Trade (Development & Regulation) Act, 1992 lays down a licensing regime for import and export, of dual-use items and technologies notified under Special Chemicals, Organisms, Materials, Equipment and. Technologies List (SCOMET). It is proposed that any such regulation on import or export would not be effective, unless it is also notified under the Customs Act, 1962 (Customs Act).

4. The Government has to issue the requisite notification under Section 11 of the Customs Act, in order to give effect to other enactments that regulate import and export, as they are mandatorily obligated on account of security, public safety, or international obligations. This amendment seems to be contrary to the provisions contained in Section 111(d) and Section 113(d) of the Customs Act which mandate compliance with other laws.

5. Amendments are proposed to substantially overhaul demand and adjudication proceedings:

- ☐ Pre-notice consultations with the importer/ exporter will be required before issuance of notice.
- ☐ Notices issued under Section 28 of the Customs Act shall be adjudicated in a time bound manner, failing which notices will lapse.
- ☐ Wherever notice for extended periods (5 years) do not survive, in the absence of collusion, willful is-statement, or suppression, the notice will be deemed to have been issued for a normal period (2 years), and duty/interest will be computed accordingly.

6. The Amendment proposes substantial changes to the mechanism for obtaining advance rulings: In line with the obligations under the World Trade Organization Trade Facilitation Agreement (which came into force on 22 February 2017), the definition of 'applicant' has been broadened to permit more persons to approach the advance ruling authority.
   - The Authority has been made two tiers: Customs Authority for Advance Ruling (CAAR) and Appellate Authority for Advance Ruling (AAAR). Principal Commissioner or Commissioner of Customs shall be CAAR. Present Authority for Advance Ruling shall become the AAAR. On appointment of CAAR, all pending applications shall stand transferred to CAAR. CAAR has to give a ruling within three (3) months.

7. As a measure to apparently link customs with GST, option of making duty payments through an electronic cash ledger (operational in GST) has been introduced.

8. A new provision proposes to provide for a customs audit. This will replace the onsite post clearance audit regulations of 2011. The 2011 regulations were not implemented widely.

9. Option to redeem confiscated goods on payment of redemption fine shall be exercised within 120days of the order, unless an appeal is pending against such order. Failure to redeem goods within prescribed time will render confiscation absolute.

10. Appellate Commissioner of Customs is empowered to remand a case back to the original adjudicating authority in case there is a breach of the principles of natural justice.

11. Mode of service for official communication has been amended and brought in line with the modes of service prescribed under GST law.

12. IGST forming part of customs duty on the clearance of into-bond transferred goods shall be as below:
    - The higher of the in-bond sale value or Assessable value, being aggregate of assessable value under Section 14 of the Customs Act + basic customs duty + Social Welfare Surcharge (if any);
    - In case of multiple in-bond sales, the in-bond sale value of the last sale or Assessable value (as determined above), whichever is higher.

13. The Budget has replaced Education Cess and Secondary & Higher Education Cess with the following:
    - Social Welfare Surcharge @ 10% on the aggregate duties of customs levied at the time of import. Petrol and High Speed diesel (HSD), unwrought or semi manufactured silver and gold are subjected to surcharge @3%.
    - Road and Infrastructure Cess @ INR 8/liter on domestically produced petrol and High Speed diesel. Import of petrol and HSD has been exempted from this cess.

14. Levy of Social Welfare Surcharge, as a duty of Customs on imported goods [Clause 108 of the Finance Bill, 2018]:

S. No.	Description	From	To
1	Levy of Social Welfare Surcharge on imported goods to finance education, housing and social security [clause 108 of Finance Bill, 2018]	--	10% of aggregate duties of customs
2	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods [clause 106 of Finance Bill, 2018]	3% of aggregate duties of customs [2% + 1%]	Nil
3	Motor spirit commonly known as petrol and high speed diesel oil	--	3% of aggregate duties of customs
4	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured form, or in powder form	--	3% of aggregate duties of customs
5	Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form	--	3% of aggregate duties of customs
6	Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods	--	Nil

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

S. No.	Description	From	To
1	Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high speed diesel oil [clause 109 of Finance Bill, 2018]	--	Rs. 8 per litre
2	Exemption from additional duty of customs leviable under section 3(1) of the Customs Tariff Act, 1975 in lieu of the proposed Road and Infrastructure cess on domestically produced motor spirit commonly known as petrol and high speed diesel oil	--	Nil
3	Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil [Clause 106 of Finance Bill, 2018]	Rs. 6 per litre	Nil
4	Additional duty of customs under sections 3(1) of the Customs Tariff Act, 1975 in lieu of basic excise duty		
	(i) Motor spirit commonly known as petrol	Rs. 6.48 per litre	Rs. 4.48 per litre

B. EXCISE

16. PROPOSALS INVOLVING CHANGE IN EXCISE DUTY RATES:

Sl. No.	Commodity	Rate of Duty	
		From	To
Motor spirit commonly known as petrol and high speed diesel oil			
1.	Levy of Road and Infrastructure Cess on motor spirit commonly known as petrol and high speed diesel oil [clause 110 of Finance Bill, 2018]	--	Rs. 8 per litre
2.	Abolition of Additional Duty of Excise [Road Cess] on motor spirit commonly known as petrol and high speed diesel oil [clause 106 of Finance Bill, 2018]	Rs. 6 per litre	Nil
3.	Basic excise duty on:		
	(i) Unbranded Petrol	Rs.6.48 per litre	Rs.4.48 per litre
	(ii) Branded petrol	Rs.7.66 per litre	Rs.5.66 per litre
	(iii) Unbranded diesel	Rs. 8.33 per litre	Rs.6.33 per litre
	(iv) Branded diesel	Rs.10.69 per litre	Rs.8.69 per litre
4.	Road and Infrastructure Cess on (i) 5% ethanol blended petrol, (ii) 10% ethanol blended petrol and (iii) bio-diesel, up to 20% by volume, subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends	--	Nil
5.	Road and Infrastructure Cess on petrol and diesel manufactured in and cleared from 4 specified refineries located in the North-East	--	Rs. 4 per litre