



# **INCOME ACT**

**Budget Analysis 2017-18**

**CMA Ashok B Nawal**



# Change in Tax Rates

| INCOME (INR)          | Existing Rate | Proposed Rate |
|-----------------------|---------------|---------------|
| Up to Rs. 2,50,000    | NIL           | NIL           |
| 2,50,000 to 500,000   | 10%           | 5%            |
| 5,00,001 to 10,00,000 | 20%           | 20%           |
| 10,00,000 and above   | 30%           | 30%           |

- Rebate reduced to INR 2,500 for to assessee upto income of INR 3.50 lacs.
- Basic Exemption limit remains unchanged – However, zero tax liability for assessee having income upto INR 3.00 Lacs.



# Change in Tax Rate

- ▶ **Surcharge:**
- ✓ **Newly Introduced:** 10% on total income exceeding INR 50 lacs but not exceeding INR 1 Crore
- ✓ **Existing Continued:** 15% on total income exceeding INR 1 Crore
  
- ▶ Corporate rates for domestic companies reduced from 30% to 25% **provided** total turnover or gross receipts in previous year 2015-16 does not exceed INR 50 Crores.
- ▶ **Revised Rates (Including Surcharge & Cess):**

| Income  | Existing Rate | Proposed Rate |
|---|---------------|---------------|
| Net Income does not exceed INR 1 Crore        | 30.9          | 25.75         |
| Net Income is between INR 1 Crore to 10 Crore | 33.06         | 27.55         |
| Net Income Exceeds INR 10 Crore               | 34.61         | 28.84         |



# Filing of Return

- ▶ The time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier. (Currently revised return can be filed within 1 year from the end of AY)
- ▶ Fees for delayed filing of the return for AY 2018-19 onward (New section 234F)
  - a. Rs. 5,000 if return is filed after due date but on or before 31st Dec of AY
  - b. Rs. 10,000 in any other case
  - c. In case of income upto Rs. 5.00 lacs, fees not exceeding Rs. 1000/-
  - d. Sec 271F penalty for failure to furnish the return shall not apply from AY 2018-19 onwards



# Filing of Return

- Rationalization of time limits for revising returns and finalizing the return

## **Assessment order under Section 143 or 144:**

- \* For AY 2018-19, time limit reduced from 21 months to 18 months from the end of the AY
- \* For AY 2019-20 onwards time limit shall be 12 months



# Search and Seizure

- ▶ In order to maintain the confidentiality & sensitivity of the search & seizure, explanation has been added so that the **investigating officer will not be required to be disclose to any person including Appellate Tribunal “the reasons behind undertaking search”**.
- ▶ This explanation has been inserted retrospectively to avoid mischief through RTI or any other means.
- ▶ Authority of provisional attachment is proposed during search & seizure proceeding for reasons to be recorded in writing for protecting the interest of revenue.
- ▶ The maximum period for the **provisional attachment is proposed to be 6 months**.
- ▶ Within 60 days, from the date on which the last of the authorizations for search was executed a reference to Valuation officer who shall estimate fair market value of property.
- ▶ Survey can be conducted at any place at which an activity for charitable purpose is carried on.

| Section | Proposed Amendment  |
|---------|---|
| 194-IB  | <p>TDS @ 5% needs to be deducted on rent paid by Individual / HUF in excess of Rs 50,000 per month. (For assessee to whom audit is not applicable u/s 44 AB)</p> <p>No need to obtain TAN and file TDS return by the deductee.</p> <p>Deduction &amp; Payment of TDS can be made in last month.</p> |
| 194-IB  | TDS @ 10% will be required to be deducted in case of payment / compensation made as per Joint Development Agreement.  |
| 194J    | In case of payments made to Call Centre, TDS will be required deducted @ 2% instead of 10%.   |
| 194LA   | As income tax is exempted in case the compensation has been paid under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the requirement of TDS to deducted has been removed.   |



| Section | Proposed Amendment   |
|---------|--|
| 194LC   | <ul style="list-style-type: none"><li>• Concessional rate of 5% TDS on interest on ECB extended to borrowings made upto 1<sup>st</sup> July 2020.</li><li>• Benefit is extended to Rupee Denomination Bonds issued outside India upto 1<sup>st</sup> July 2020..</li></ul>   |
| 197A    | In the case of Individuals and HUFs eligible for filing self-declaration in Form No. 15G/15H for non-deduction of tax at source in respect insurance commission referred to in section 194D.   |
| 206C    | <ul style="list-style-type: none"><li>• TCS for Jewellery need not be collected for cash payment made above Rs. 500000/- as from now onwards cash payment above Rs. 300000/- is not permitted.</li><li>• No TCS will be required to be deducted on sale of vehicle to Government, Local authorities &amp; Public Sector companies.</li></ul> |
| 206CC   | In case of non-furnishing of PAN by deductee, Higher TCS i.e. twice the rate specified or 5% whichever is higher needs to be collected.  |
| 244A    | In case of deductor is eligible for refund in case of excess payment then he is entitled for simple interest @ 1.5% per month.   |





# House Property

## Restriction on set-off of loss from House property:

- ▶ Set-off of loss under the head "Income from house property" against any other head of income shall be ***restricted to two lakh rupees*** for any assessment year.
- ▶ The unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.
- ▶ Effective from 1<sup>st</sup> April 2018 and will, accordingly apply in relation to assessment year 2018-19 and subsequent years.



- ▶ In case of real estate developers, Notional Income to be considered only after one year from the completion certificate to enable real estate developers to liquidate their inventory.
- ▶ With a view to promote the real-estate sector, it is proposed to amend section 2(42A) of the Act so as to reduce the period of holding from the ***existing 36 months to 24 months*** in case of immovable property.



## **Affordable Housing:**

- ▶ The existing provisions of section 80-IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions.

## **Relaxation for claiming deduction:**

- ▶ The size of residential unit shall be measured by taking into account the "carpet area" as defined in Real Estate (Regulation and Development) Act, 2016 and not the "built-up area".
- ▶ The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
- ▶ The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.



## Joint Development Agreement:

- ▶ In case of Joint Development Agreement (JDA), the land owner was tax in the year of execution of JDA.
- ▶ Amendment has been proposed in Sec 45 where in capital gain in the hands of the Land Owner will be chargeable to Income Tax in the year in which the completion certificate of the project is issued by the competent authority.
- ❑ A. Stamp duty value as increased by the monetary consideration shall be deemed to be the full value of consideration.
- ❑ B. Provisions will not be applicable with the land owner transfers his share before the issuance of certificate of completion.



# Capital Gains

- ▶ Sec 10 (38) is proposed to be amended to ensure continuation of exemption benefit on transfer of long term capital asset, being listed equity shares, on which ***Securities Transaction Tax*** could not be paid due to Genuine Reasons such as IPO, FPO, bonus etc. such cases will be notified.
- ▶ Base year of Computation for cost of acquisition proposed to be amended to April 1, 2001 from the existing April 1, 1981.
- ▶ Scope of Section 54EC Proposed to be expanded by including ***any bond redeemable after 3 years which has been notified by the Central Government.***
- ▶ On similar lines as existing in case of determining the value of immovable property in Sec 50C -
  - ❑ Sec 50CA is proposed to be inserted to deem fair market value, as may be prescribed, as full value of consideration, in case of transfer of shares in company (other than quoted shares), if the consideration is less than Fair Market value.



## ► **Proposal to Amend Sec 79 w.e.f 1<sup>st</sup> April 2018**

- ☐ For the purpose of carry forward of losses in respect of such start-ups, the condition of continuous holding of 51% of voting rights has been relaxed subject to condition that the holding of original promoter / promoters continues.

## ► **Extending the Period for claiming the deduction by Start-ups w.e.f. 1<sup>st</sup> April 2018**

- ☐ 100% deduction of profits are available for 3 years out of 5 years changed to 3 years out of 7 years.



# Minimum Alternate tax (Sec 115JJA)

- ▶ It is proposed to amend section 115JAA to provide that the tax credit determined under this section can be carried forward ***up to fifteenth assessment years instead of ten AY*** immediately succeeding the assessment years in which such tax credit becomes allowable.
- ▶ Similar amendment is proposed in section 115JD so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC ***up to fifteenth assessment years instead of ten AY*** in case of non corporate assessee.



# Income of SEZ- Sec 10AA

## Rationalisation of provisions of Section 10AA:

- ▶ Under existing provision, deduction is allowed from the total income of an assessee, in respect of profits and gains from his Unit operating in SEZ, subject to fulfilment of certain conditions.
- ▶ Courts have taken a view (while deciding the matter pertaining to section 10A which also contains similar provision) that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.
- ▶ It is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA in no case shall exceed the said total income.





# Bad & Doubtful Debt

*Increase in deduction limit in respect of provision for bad and doubtful debts:*

- In order to strengthen the financial position of the entities specified in the sub-clause (a) of section 36(1) (vii) of the Act, ***a scheduled bank*** (not being a bank incorporated by or under the laws of a country outside India) ***or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank*** it is proposed to amend the said sub-clause to ***enhance the present limit from seven and one-half per cent. to eight and one-half per cent of the amount of the total income.***



- ▶ No deduction shall be allowed under the section 80G in respect of donation of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.
- ▶ **Payment u/s 43:** Where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, **exceeds ten thousand rupees**, such expenditure shall be ignored for the purposes of determination of actual cost of such asset.
- ▶ **Payment u/s 35AD:** Any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, **exceeds ten thousand rupees, no deduction** shall be allowed in respect of such expenditure.



## Amendment in Sec 40A (3) ( Cash Payment):

- ▶ Any payment in cash ***above ten thousand rupees (Currently Rs. 20,000)*** to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession"
- ▶ Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding ten thousand rupees to a person in a single day.



## Measures for promoting digital payments in case of small unorganized businesses (Sec 44AD – Presumptive Taxation):

- ▶ Presumptive income u/s 44AD proposed to be amended to deemed total income as **6% of total turnover** or gross receipts which does not exceed INR 2 Crore, if received in any digital manner, ***otherwise it will continue to 8%***.
- ▶ Audit shall not be applicable to assessee to whom Sec 44AD is applicable.



# Cash Transaction

- ▶ In order to curb Cash Transaction, restriction has been as under.

No person shall receive an amount of three lakh rupees or more—

- (a) in aggregate from a person in a day; or
- (b) in respect of a single transaction; or
- (c) in respect of transactions relating to one event or occasion from a person

- ▶ 100% Penalty has been proposed for cash transaction made in excess Rs 3,00,000/-.



# Political Funding

The provisions of section 13A to provide for additional conditions for availing the benefit of the said section which are as under:

- ▶ No donations of Rs.2000/- or more is received otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds,
- ▶ Political party is required to file its return of income under section 139(4B) of the Act.
- ▶ The political parties shall not be required to furnish the name and address of the donors who contribute by way of ***electoral bond***.



# Increase in Threshold Limit

## Increasing the threshold limit for *maintenance of books of accounts* in case of Individuals and Hindu undivided family (Sec 44AA):

- ▶ Increase monetary limits of income and total sales or turn over or gross receipts, etc specified in said clauses for maintenance of books of accounts from ***one lakh twenty thousand rupees to two lakh fifty thousand rupees and from ten lakh rupees to twenty-five lakh rupees***, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

## Increase in limit of turnover for audit u/s 44AB:

- ▶ Limit is increased from INR 1 Crore to INR 2 Crore.



# Carbon Credit

- ▶ Carbon credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy-efficient machinery, landfill methane capture, etc.
- ▶ Where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the ***concessional rate of ten per cent*** (Currently 30%) ( plus applicable surcharge and cess) on the gross amount of such income u/s 115BBG.
- ▶ No expenditure or allowance in respect of such income shall be allowed under the Act.





# Trust & Institution

## Clarity of Procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12:

- ▶ Where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application. (Currently no explicit provision in the act which mandates such fresh registration)
- ▶ The person in receipt of the income chargeable to income-tax shall furnish the return of income ***within the time*** allowed under section 139 of the Act.



# Income Declaration Scheme

## Rationalization of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C:

- ▶ Where ***tangible evidence(s)*** are found during a search or seizure operation (including 132A cases) and the same is represented in the form of undisclosed investment in any asset, it is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided upto the tenth assessment year if-
  - (i) the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year)
  - (ii) such income escaping assessment is represented in the form of asset;
  - (iii) the income escaping assessment or part thereof relates to such year or years.



# NPS Subscriber

- ▶ Currently payment from National Pension System (NPS) trust to an employee on closer of his account or opting out shall be exempt up to 40% of total amount payable to him.
- ▶ Exemption to partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013 and regulations made there under.



# Self-employed individual

## Rationalisation of deduction under section 80CCD for self-employed individual:

- ▶ Currently the deduction under section 80CCD (1) cannot exceed 10% of salary in case of an employee or 10% of gross total income in case of other individuals.
- ▶ It is proposed that deduction to an employee in respect of contribution made by his employer is allowed up to 10% of salary of the employee.
- ▶ Thus, in case of an employee, the deduction allowed under section 80CCD adds up to 20% of salary whereas in case of other individuals, the total deduction under section 80CCD is limited to 10% of gross total income.
- ▶ It is proposed to amend section 80CCD so as to increase the upper limit of ten per cent of gross total income to twenty per cent ***in case of individual other than employee.***



# Income from Other Sources

## Widening scope of Income from other sources:

- ▶ Section 56(2)(x) is proposed to be introduced so as to provide that receipt of the sum of money or the property **by any person** without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources"



# Penalty on Professionals

## Penalty on professionals for furnishing incorrect information in statutory report or certificate (Sec 271J):

- ▶ Penalty of Rs 10,000 has been proposed on the Accountant, banker, valuer for incorrect certification / submission of information.
- ▶ If the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of the proposed section 271J.



# Other Important Amendments

- ▶ Companies can claim the credit of tax paid in foreign country after settlement of the dispute in the year in which such income is offered to tax or assessed to tax in India.
- ▶ Professional opting for presumptive taxation under section 44ADA will be required to deposit Advance Tax in one go by 15th March.
- ▶ ***Assessing officer can withhold the refund due to the assessee under the provisions of sub-section (1) of section 143 in case AO is of the opinion that the grant of the refund is likely to adversely affect the revenue.***
- ▶ Common Advance Ruling authority for Income Tax, Central Excise, Customs & Service tax has been proposed.



# THANK YOU.

Contact:

Email : [nawal@bizsolindia.com](mailto:nawal@bizsolindia.com)