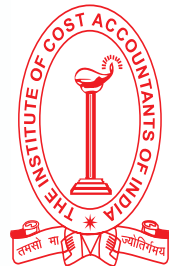


# TAX Bulletin

February, 2018 Volume - 10  
"Union Budget 2018-19"



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

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Delhi Office: CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

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## MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”



## VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

## Objectives of Taxation Committee:

1. Preparation of Guidance Note and Analysis of various Tax matters for best Management Accounting Practices for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit suggestions to the Ministry from time to time for the betterment of Economic growth of the Country.
4. Evaluating opportunities for CMAs to make effective value addition to the tax-economy.
5. Designing of Certificate Course on Direct and Indirect Tax for members and stake holders.

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## FROM THE DESK OF THE CHAIRMAN

***“One finds limits by pushing them” – Herbert Simon***

Namaskar....!!!

There is the matter of whether the emphasis is on making the stakeholders aware by improving their knowledge about the present economic condition. The answer of course is that it is important. It is an endeavour of the Institute of Cost Accountants of India - Tax Research Department to constantly work and re-work to help its stake-holders gain knowledge and implement them practically.

Moving forward with the same, the Institute has launched its Certificate course on GST from the 17<sup>th</sup> of February, 2018 across 9 locations, PAN India in the 1<sup>st</sup> phase. The response which has been obtained from the industry, Government and Members is overwhelming and heart warming. It has been well accepted and admired.

Webinars are being organised on a continuous basis. It would be beneficial to the participants for understanding the practical aspects of taxation. Seminars are also being organised on Union Budget and GST. The GST portal is also an online platform to resolve your GST queries by Experts. Guidance note on Anti-profiteering has also been published by the department.

Tax Bulletin is the bi-monthly journal on various aspects of taxation. Your support is solicited, by contribution in form of articles and value additions in this regard.

Submission to GSTN on Issues on various returns under GST regime and Simplification has also been undertaken by the department.

Industry participants, stakeholders and members are welcomed to participate in the National Cost Convention to be held on 16<sup>th</sup> and 17<sup>th</sup> March 2018 at New Delhi. You may please refer to the brochure (attached in this bulletin) and the Institutes website for further details and clarifications.

Together we aim and achieve milestones...

**CMA Niranjan Mishra**  
Chairman – Taxation Committee  
17<sup>th</sup> February, 2018

# TAXATION COMMITTEE 2017 - 2018

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CMA H Padmanabhan	-	Vice President
CMA Niranjan Mishra	-	Chairman

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CMA Rajat Kumar Basu

# ACKNOWLEDGEMENTS

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CMA Vishwanath Bhat	-	Practicing Cost & Management Accountant
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CMA Ranjan Talwar	-	Practicing Cost & Management Accountant
CMA Sandeep Kumar	-	Chairman, CMA Club, India

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CMA Rashmi Gupta	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Astt. Director - Tax Research
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CMA Debasmita Jana	-	Consultant
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# CONTENTS

ARTICLES		
<b>INDIRECT TAX</b>		
<b>01</b>	<b>ABC OF ACCOUNTING IN GST ERA</b>	
	CMA Arindam Goswami	Page - 1
<b>02</b>	<b>MISCELLANEOUS SUPPLY UNDER GST REGIME</b>	
	CMA Sandeep Kumar	Page - 5
<b>03</b>	<b>PROPOSALS INVOLVING CHANGE IN CUSTOMS DUTY RATES</b>	
	Team TRD	Page - 7
<b>DIRECT TAX</b>		
<b>01</b>	<b>UNDERSTANDING UNION BUDGET PROPOSAL 2018</b>	
	CMA Mrityunjay Acharjee	Page - 10
Frequently Asked Questions regarding taxation of long-term capital gains proposed in Finance Bill, 2018		
		Page - 22
Post introduction of GST, Revenue from Indirect Taxes		
		Page - 24
TAX UPDATES, NOTIFICATIONS AND CIRCULARS		
INDIRECT TAX		Page - 25
PRESS RELEASE		
DIRECT TAX		Page - 28
JUDGEMENTS		
INDIRECT TAX		Page - 29
DIRECT TAX		Page - 29
TAX COMPLIANCE CALENDAR AT A GLANCE		
INDIRECT TAX		Page - 33
DIRECT TAX		Page - 33
GLIMPSES OF PANEL DISCUSSION ON UNION BUDGET		
Rourkela Chapter		Page - 35
Cochin Chapter		Page - 36
ANNUAL SEMINAR ON GST – Talcher - Angul Chapter		Page - 37
Brochure - Certificate Course on GST		
		Page - 38
Brochure - 58 <sup>th</sup> National Cost Convention - 2018		
		Page - 39



# ABC OF ACCOUNTING IN GST ERA

**CMA ARINDAM GOSWAMI**  
Practicing Cost & Management Accountant

In GST era Every Registered Person shall keep and maintain ,in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices. Bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

GST will not only subsume the existing indirect taxes such as Service Tax, VAT, Excise, CST etc. but also simplify **business and accounting processes**. Initially, there may be certain transitional issues but in long term, it will ensure more transparency in **business reporting and compliance**.

In the GST regime, a taxpayer is required to maintain all types of **accounts and records related to GST transactions such as input supplies, output supplies, production, input credit, output tax, Stock, Import-export, reverse charge** etc. To know more about types of accounts and records under, please check – **Types of Accounts Under GST. This article will give you clear ideas of different types of business transactions related to GST accounting treatments.**

## What records must be maintained under GST?

**Goods and Services Tax (GST)** is a tax reform that will eliminate India's major indirect taxes - **Excise, Service Tax, and VAT**. However, **record-keeping and reporting requirements under GST** contain elements from each of these, and they are far from simple.

**Section 35 of the GST Act explains the record-keeping requirements.** In addition, in **April 2017** the central government released draft rules for **GST accounts and records (draft record rules)**, which lists additional **GST accounting and record-keeping requirements**.

**Every registered person**

**Section 35**

**Each registered person is required maintain a true and correct account of the following:**

- **Production or manufacture of goods**
- **Inward and outward supply of goods or services, or both**
- **Stock of goods**
- **Input tax credit availed**
- **Output tax payable and paid**
- **Any other particulars deemed necessary**

**The above records must be maintained at each place of business registered under GST.**

## Draft record rules

In additions to the above, every registered person must maintain the following:

- A separate account of advances received and paid, along with any adjustments
- A true and correct account of:
  - Goods or services imported or exported
  - Supplies attracting payment of tax on reverse charge

## Other points:

Every registered person must also maintain relevant documents including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers, and electronic way (e-way) bills. Additionally, there must be separate records for each activity (i.e., manufacturing, trading, and the provision of services). Records must be in serially-numbered account books and include the following information:

- Names and complete addresses of suppliers
- Names and complete addresses of customers
- Address of all premises where the goods are stored, including goods stored during transit, and descriptions of the stock stored

## Registered person other than person falling u/s 10 (composition levy)

Furthermore, all the registered people other than those falling under composition levy scheme must maintain accounts of stock for each commodity received and supplied, along with the following information:

- Opening balance
- Receipt
- Supply
- Goods lost, stolen, destroyed, written off, or disposed of by way of gift or free samples
- Balance of stock including raw materials, finished goods, scrap, and waste

These registered persons must also maintain an account containing the following details:

- Tax payable
- Tax collected and paid
- Input tax and input tax credit claimed
- Register of tax invoice, credit note, debit note, and delivery challan issued or received during any tax period

## Godown and warehouse owner/operators and transporters

There are different requirements for warehouse owner/operators and transporters. Whether registered or not, they must maintain records as prescribed under draft GST rules:



- Every unregistered must submit business details electronically in Form GST ENR-01
- Every transporter must maintain separate records for all branches of goods transported, delivered, and stored in transit:
- Every warehouse and godown owner/operator must maintain books of accounts for each period that goods remain in the warehouse, including details relating to dispatch, movement, receipt, and disposal of such goods
- The owner/operator must store the goods so that they can be identified by item and by owner, and facilitate (on demand) any authorized physical verification or inspection

#### Agent u/s 2(5)

Draft record rules require Agents (brokers, commission agents, *del credere* agents, auctioneer etc.) referred to in section 2(5) to maintain the following:

- Authorization from each principal to separately receive or supply goods or services on their behalf
- A description of goods or services received on behalf of every principal, including value and quantity (wherever applicable)
- A description of goods or services supplied on behalf of every principal, including value and quantity (wherever applicable)
- Details of accounts furnished to every principal
- Tax paid on the supply of goods or services performed on behalf of every principal

#### Registered manufacturer of goods

As per the draft record rules, every manufacturer must maintain:

- Monthly production accounts showing the quantitative details of raw materials or services used in the manufacture
- Quantitative details of the goods manufactured, including any waste and by-products

#### Registered service provider

The draft record rules require every service provider to maintain the following:

- Accounts showing the quantitative details of goods used in the provision of each service
- Details of input services utilized and the services supplied

#### Registered works contractor

Under the draft record rules, registered works contractors are required to maintain separate accounts for each contract, showing:

- The names and addresses of the persons on whose behalf the contract is executed
- A description, value, and quantity of goods or services received for the execution of the work
- A description, value, and quantity of goods or services utilized in the execution of each work contract
- A description of the payment received for each contract
- The names and addresses of suppliers of goods or services received

#### Persons whose turnover exceeds ₹1 crore in a financial year

In addition to the above requirements, any person whose turnover exceeds ₹1 crore in a financial year is required to:

- Have accounts audited by a chartered accountant or a cost accountant
- Submit a copy of the audited annual accounts and the reconciliation statement u/s 44(2) (Form GSTR-9B) and file annual return (Form GSTR-9)

#### Electronic record-keeping requirements

- Electronic records must be authenticated by means of a digital signature
- Electronic records must be backed-up

#### Types of Ledger Accounts to be Maintained Under GST

Under the GST regime, all indirect taxes will be subsumed in GST and there will be dual GST Structure based on intra-state supplies and inter-state supplies. The CGST and SGST will be charged on intra-state supplies whereas the IGST (Integrated Goods and Services Tax) will be charged on all inter-state supplies. Therefore separate ledger account is required to be maintained related to CGST, SGST and IGST.

There are list of Ledgers to be created under Balance Sheet are as follows:

#### Under Current Asset:

- 1) Input CGST A/c, 2) Input SGST A/c, 3) Input IGST A/c,
- 4) Provisional ITC CGST A/c, 4) Provisional ITC SGST A/c,
- 5) Provisional ITC IGST A/c, 6) Electronic Credit CGST A/c,
- 7) Electronic Credit SGST A/c, 8) Electronic Credit IGST A/c,
- 9) Electronic Cash CGST A/c, 10) Electronic Cash SGST A/c,
- 11) Electronic Cash IGST A/c, 10) Cash/Bank A/c

#### Duties & Taxes (Current Liabilities)

- 1) 6% Output CGST A/c, 2) 6% Output SGST A/c, 3) 12% output IGST A/c (Here we take 12%), 4) GST on Advance.

#### Current Liabilities

- 1) Electronic Liability CGST A/c, 2) Electronic Liability SGST A/c,
- 3) Electronic Liability IGST A/c.

There are list of Ledgers to be created under Profit & Loss are as follows:

#### OUTWARD SUPPLY

- 1) Local B2B Sales A/c, 2) Local B2C Sales A/c, 3) Interstate B2B Sales A/c,
- 4) Interstate B2C Sales A/c, 5) Export Sales, 6) Exempt Sales,
- 7) E Com Sales.

#### INWARD SUPPLY

- 1) Purchases A/c, 2) Exempt Purchases A/c, 3) Expenses A/c,
- 4) Inward Supply-Purchases A/c.

**GST Accounting Entries for Intra state Transactions (i.e within the State) for purchases of Goods, Purchases Of Assets & Consultation Fees & How ITC has been shown are as follows:**

Mr. Ajay purchased goods ₹3,00,000 locally (intrastate). He sold them for ₹ 5,00,000 in the same state. He paid legal consultation fees ₹60,000. He purchased Plant & Furniture for his office for ₹1,00,000 from Machinery Company. (Assuming CGST @9% and SGST@9%)

Sr. No.	Particulars	Debit	Credit
1	Purchase A/c.....Dr	300000	
	Input CGST A/c .....Dr	27000	
	Input SGST A/c .....Dr	27000	
	To Creditors A/c		354000
2	Debtors A/c..... Dr		
	To Sales	590000	500000
	To Output CGST A/c		45000
	To Output SGST A/c		45000
3	Consultancy Fees A/c..... Dr	60000	
	Input CGST A/c .....Dr	5400	
	Input SGST A/c .....Dr	5400	
	To Bank A/c		70800
4	Plant & Machinery A/c..... Dr	100000	
	Input CGST A/c .....Dr	9000	
	Input SGST A/c .....Dr	9000	
	To Bank A/c		118000
5	Output CGST A/c..... Dr	45000	
	Output SGST A/c..... Dr	45000	
	To Input CGST A/c		41400
	To Input SGST A/c		41400
	To Electronic Cash Ledger A/c		7200

Total Input CGST = 27,000 + 5400 + 9,000 = ₹41,400

Total Input SGST = 27,000 + 5400 + 9,000 = ₹41,400

Total output CGST = 45,000

Total output SGST = 45,000

**Therefore Net CGST payable = 45,000 - 41,400 = 3,600**

**Net SGST payable = 45,000 - 41,400 = 3,600**

Thus Output liability of ₹45,000 has been adjusted with Input tax credit of ₹41,400. So, net tax liability of CGST is ₹3,600 and SGST ₹3,600.

#### **GST Accounting Entries for Interstate transactions (i.e Outside the State) along with expenses & Office Equipment**

Mr. Rahul purchased goods ₹3,00,000 from outside the State. He sold ₹4,00,000 locally. He sold ₹2,00,000 outside the state. He paid expenses ₹50,000. He purchased an office Equipment for his office for ₹24,000 (locally) Assuming CGST @9% and SGST@9%.

Sr. No.	Particulars	Debit	Credit
1	Purchase A/c.....Dr	300000	
	Input IGST A/c.....Dr	54000	
	To Creditors A/c		354000
2	Debtors A/c.....Dr	472000	
	To Sales A/c		400000
	To Output CGST A/c		36000
	To Output SGST A/c		36000
3	Debtors A/c.....Dr	236000	
	To Sales A/c		200000
	To Output IGST A/c		36000
4	Expenses A/c.....Dr	50000	
	Input CGST A/c.....Dr	4500	
	Input SGST A/c.....Dr	4500	
	To Bank A/c		59000
5	Office Equipment A/c.....Dr	48000	
	Input CGST A/c.....Dr	4320	
	Input SGST A/c.....Dr	4320	
	To Bank A/c		56640
<b>Setoff against CGST Output</b>			
	Output CGST A/c.....Dr	26820	
	To Input CGST A/c		8820
	To Input IGST A/c		18000

Setoff against SGST Ouput			
Output SGST A/c.....Dr		8820	
	To Input SGST A/c		8820
Setoff against IGST Ouput			
Output IGST A/c.....Dr		36000	
	To Input IGST A/c		36000
Final Payment			
Output CGST A/c.....Dr		9180	
Output SGST A/c.....Dr		27180	
	To Electronics Cash Ledger A/c		36360

Total CGST input = 4,500 + 4,320 = 8,820  
 Total CGST output = 36,000  
 Total SGST input = 4,500 + 4,320 = 8,820  
 Total SGST output = 36,000  
 Total IGST input = 54,000

Total IGST output = 36,000

Any IGST credit will first be applied to set off IGST and then CGST. So out of total input IGST of ₹54,000, firstly it will be completely setoff against IGST. Then balance ₹18,000 against CGST.

**From the total liability ₹1,08,000, only ₹36,360 is payable**

Particulars	CGST	SGST	IGST
Output Liability	36000	36000	36000
Less: Input Tax Credit			
CGST (Expenses+OfficeEqui.)	8820		
SGST (Expenses+OfficeEqui.)		8820	
IGST	18000		36000
Amount Payable	9180	27180	NIL

#### 5. Accounting Treatment of Refunds in Case of Export of Goods and Services:

Under GST law, the **exports of goods or services are treated as Inter - State Supplies**. We have already discussed the impact of GST on exports in our previous article – **How Exports are Treated Under GST**. In the case of export supplies, the exporter has two options:

**A. Export Under Bond/LUT (Clear goods without payment of duty and claim the refund of Input credits):** In this case, the exporter has to record sale without charging any tax and determine the unutilized input credit of inputs for claiming the refund. The **journal entry for refund claim** will be as follows:

CGST Refund Receivable A/c \_\_\_\_\_ Dr.  
 SGST Refund Receivable A/c \_\_\_\_\_ Dr.  
 IGST Refund Receivable A/c \_\_\_\_\_ Dr.  
 To CGST Input Credit A/c (unutilized input credit)  
 To SGST Input Credit A/c (unutilized input credit)  
 To IGST Input Credit A/c (unutilized input credit)

**B. Export Under Rebate Claim (Clear goods with payment duty and claim the refund of duty paid on export goods):** In this case, the sale will be recorded as follows:

Debtors A/c \_\_\_\_\_ Dr.  
 IGST Refund Receivable A/c \_\_\_\_\_ Dr.  
 To Sales A/c  
 To IGST Payable A/c

#### 6. Accounting Treatment for Imports

In our previous article "Treatment of Imports under GST regime" we have discussed that Imports are treated as Inter - State supplies and therefore, IGST will be payable by the importer of goods or services. Further, the Custom duty is also applicable in the case of **Import of Goods** but the input credit of Custom duty

is not allowed. Hence the importer can claim input credit of IGST and the Custom Duty will be added in the cost of imported goods:-

Purchase A/c \_\_\_\_\_ Dr.  
 IGST Input Credit A/c \_\_\_\_\_ Dr.  
 To Creditor A/c  
 To IGST Payable A/c  
 To Custom Duty Payable A/c

#### Conclusion

In addition, taxpayers must be able to produce — on demand — an account of the audit trail and inter-linkages, including the source document (paper or electronic), financial accounts, record layout, data dictionary, an explanation for codes used, and the total number of records in each field along with sample copies of documents.

As shown above, the GST regime has extensive accounting and record-keeping requirements. Although some of the more cumbersome manufacturing excise tax record-keeping requirements are eliminated under GST, they're replaced by similarly stringent requirements. The onus is therefore on professionals and accountants to keep informed and in compliance with the new GST law, rules, and regulations.

The stakes are high. With the government intending to make the GST compliance rating of each taxable person public, non-compliance would have an adverse effect on the entire business.



# MISCELLANEOUS SUPPLY UNDER GST REGIME

**CMA SANDEEP KUMAR**  
Chairman, CMA Club India

## Miscellaneous Supplies under GST Regime except Section 7 of CGST Act

Inward Supply  
Outward Supply  
Composite Supply  
Mixed Supply  
Non Taxable Supply  
Nil Rated Supply  
Exempted Supply  
Zero Rated Supply  
Non GST Supply  
Inter State Supply  
Intra State Supply  
Continuous Supply

### Inward Supply

Inward Supply in relation to a person shall mean receipts of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration. In simple word, any types of purchases are called inward supply.

### Outward Supply

Outward Supply in relation to a person shall mean supply of goods and/or services whether by sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to make by such person in the course or furtherance of business. In simple word, any types of sales are called outward supply.

### Composite Supply

Section 2(30) of CGST Act, Composite Supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Composite **Tax treatment** Under Composite supply, the tax rate of the **principal** supply will apply on the entire supply.

**For Example:** A hotel in Delhi provides breakfast, Lunch, Dinner, Taxi Services, a swimming pool and spa services along with your hotel room you can use all of the other services only if you stay in the hotel. Therefore, this is a composite supply and it cannot be sold separately. The accommodation is principal supply, and the other components of the package are dependent supplies.

### Mixed Supply

Section 2(74) of CGST Act, Mixed Supply means two or more individual supplies of goods or services, or any combination

thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

**Tax Treatment** under Mixed supply, the tax rate of the item which has the **highest** rate of tax.

**For Example:** A Supply of Package consisting of sweets, chocolates, dry fruits, cakes, fruit juice and toys when supplied for a single price are a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

## Details about Mixed Supply and Composite Supply are mentioned Under Section 8 of CGST Act

### Non Taxable Supply

Section 2(78) of CGST Act, Non taxable supply means a supply of goods or services or both which is not leviable to tax under CGST Act or under the IGST Act.

### Nil Rated Supply

Nil Rated supplies are those supply of goods, or services, or both which are included in the Schedule of Taxes but the rate of Tax is "NIL".

Nil Rated Supply is the supply of goods and services that have 0% GST.

### Exempted Supply

Exempted supplies have been defined under section 2(47) and means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Exempted Supply is the supply of goods and services that does not attract GST and allows no claim on Input Tax Credit. Exempted supply of any goods or services is one which attract Nil Rate of Tax or which may be wholly exempt from tax. It includes Non Taxable supply.

### Zero Rated Supply

Section 2(16) of IGST Act, Zero Rated Supply include

- supplies made to any countries other than India and
- Supplies made to customer located in Special Economic Zone or SEZ Developers.

GST is not applicable in India for Exports. Hence, All Export supplies of a taxpayer registered under GST would be classified as Zero Rated Supply.

#### **Non GST Supply**

Non-GST supplies are petroleum products and alcoholic liquor for human consumption. Non GST Supply is the supply of goods and services that does not come under the purview of GST while other taxes may be applicable.

#### **Inter State Supply**

Inter State Supply is a supply of goods and services, where the location of the supplier and place of supply are in -

- a. Two different states
- b. Two different Union territories or
- c. A state and a Union territory

It also includes import of goods or services into the territory of India.

- a. When the supplier is located in India and the place of supply is outside India.
- b. To or by a SEZ Developers or a SEZ Unit
- c. In the taxable territory, not covered elsewhere.

#### **Intra State Supply**

Intra state supply is a supply of goods or services where the location of the supplier and place of supply of goods are in the same state or same union territory.

Exceptions:

- a. Supply of goods to or by SEZ Developer or SEZ Unit
- b. Goods Imported into the territory of India.
- c. Supplies made to a Tourist\*.

**Section 25 of CGST Provide Every Person who makes a supply from the territorial water of India shall obtain registration in the coastal state or Union territory where the nearest point of the appropriate baseline is located.**

#### **Continuous Supply**

**Continuous Supply of Goods:** It means a supply of goods which is provided on continuous basis under a contract, whether or not by means of wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or basis and includes supply of notified goods.

**Continuous Supply of Services:** It means supply of services which is provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with periodic payment obligations and includes supply of notified services.

# PROPOSALS INVOLVING CHANGE IN CUSTOMS DUTY RATES

## TEAM TRD

SL NO.	HEADING/ SUB HEADING/ TARIFF	COMMODITY	FROM	TO
<b>Incentivizing domestic value addition, 'Make in India'</b>				
1	0801 31 00	Cashew nuts in shell [Raw cashew]	5%	2.5%
2	8483 40 00 8466 93 90 8537 10 00	Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools falling under headings 8456 to 8463	7.5%	2.5%
3	70	Solar tempered glass or solar tempered [anti-reflective coated] glass for manufacture of solar cells /panels/modules	5%	Nil
4	Any Chapter	Raw materials, parts or accessories for the manufacture of Cochlear Implants	2.5%	Nil
5	2009 11 00, 2009 12 00, 2009 19 00	Orange fruit juice	30%	35%
6	2009 21 00 To 2009 90 00	Other fruit juices and vegetable juices	30%	50%
7	2009 81 00, 2009 90 00	Cranberry juice	10%	50%
8	2106 90	Miscellaneous Food preparations (other than soya protein)	30%	50%
9	3303	Perfumes and toilet waters	10%	20%
10	3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or suntan preparations; manicure or pedicure preparations	10%	20%
11	3305	Preparations for use on the hair	10%	20%
12	3306	Preparations for oral or dental hygiene, including denture fixative pastes and powders; yarn used to clean between the teeth (dental floss), in individual retail packages	10%	20%
13	3307	Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included, prepared room deodorizers, whether or not perfumed or having disinfectant properties	10%	20%
14	8407, 8408, 8409, 8483 10 91, 8483 10 92, 8511, 8708, 8714 10	Specified parts/accessories of motor vehicles, motor cars, motor cycles	7.5%/ 10%	15%
15	8702, 8703, 8704, 8711	CKD imports of motor vehicle, motor cars, motor cycles	10%	15%
16	8702, 8704	CBU imports of motor vehicles	20%	25%
17	4011 20 10	Truck and Bus radial tyres	10%	15%
18	5007	Silk Fabrics	10%	20%
19	6401, 6402, 6403, 6404, 6405	Footwear	10%	20%
20	6406	Parts of footwear	10%	20%
21	71	Cut and polished colored gemstones	2.5%	5%
22	71	Diamonds including lab grown diamonds-semi processed, half-cut or broken; non-industrial diamonds including lab-grown diamonds (other than rough diamonds), including cut and polished diamonds	2.5%	5%
23	7117	Imitation Jewellery	15%	20%
24	8517 12	Cellular mobile phones	15%	20%
25	3919 90 90, 3920 99 99, 3926 90 91, 3926 90 99, 4016 99 90, 7318 15 00, 7326 90 99, 8504,	Specified parts and accessories of cellular mobile phones	7.5%/ 10%	15%

	8506, 8507, 8517 70 90, 8518, 8538 90 00, 8544 19, 8544 42, 8544 49			
26	8504 90 90/3926 90 99	PCBA of charger/adaptor and moulded plastic of charger/adaptor of cellular mobilephones	Nil	10%
27	Any Chapter	Inputs or parts for manufacture of: a) PCBA, or b) moulded plastics of charger/adaptor of cellular mobile phones	Applicable Rate	Nil
28	8517 62 90	Smart watches/wearable devices	10%	20%
29	8529 10 99, 8529 90 90	LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5%/ 10%	15%
30	8529/4016	12 specified parts for manufacture of LCD/LED TV panels	Nil	10%
31	70	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	Nil	5%
32	9401	Seats and parts of seats [except aircraft seats and parts thereof]	10%	20%
33	9403	Other furniture and parts	10%	20%
34	9404	Mattresses supports; articles of bedding and similar furnishing	10%	20%
35	9405	Lamps and lighting fitting, illuminated signs, illuminated name plates and the like [except solar lanterns or solar lamps]	10%	20%
36	9101, 9102	Wrist watches, pocket watches and other watches, including stop watches	10%	20%
37	9103	Clocks with watch movements	10%	20%
38	9105	Other clocks, including alarm clocks	10%	20%
39	9503	Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; puzzles of all kinds	10%	20%
40	9504	Video game consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment	10%	20%
41	9505	Festive, carnival or other entertainment articles	10%	20%
42	9506 [except 9506 91]	Articles and equipment for sports or outdoor games, swimming pools and paddling pools [other than articles and equipment for general physical exercise, gymnastics or athletics]	10%	20%
43	9507	Fishing rods, fishing-hooks and other line fishing tackle; fish landing nets, butter fly nets and similar nets; decoy birds and similar hunting or shooting requisites	10%	20%
44	9508	Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, travelling menageries and travelling theatres	10%	20%
45	3406	Candles, tapers and the like	10%	25%
46	4823 90 90	Kites	10%	20%
47	9004 10	Sunglasses	10%	20%
48	9611	Date, sealing or numbering stamps, and the like	10%	20%
49	9613	Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks	10%	20%
50	9616	Scent sprays and similar toilet sprays, and mounts and heads therefore; powder-puffs and pads for the application of cosmetic or toilet preparations	10%	20%
<b>Rationalization measures</b>				
1	1508, 1509, 1510,1512, 1513, 1515	Crude edible vegetable oils like Ground nut oil, Olive oil, Cottonseed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils.	12.5%	30%
2	1508, 1509, 1510,1512, 1513, 1515, 1516 20, 1517 10 21, 1517 90 10, 1518 00 11, 1518 00 21, 1518 00 31	Refined edible vegetable oils, like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil, Saffola oil, Coconut oil, Palm Kernel/Babassu oil, Linseed oil, Maize corn oil, Castor oil, Sesame oil, other fixed vegetable fats and oils, edible margarine of vegetable origin, Sal fat; specified goods of heading 1518	20%	35%
3	6815 91 00	Other articles of stone containing magnesite, dolomite or chromite	10%	7.5%
4	6901	Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths	10%	7.5%

5	6902	Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods, other than those of siliceous fossil meals or similar siliceous earths	5%	7.5%
6	6903	Other refractory ceramic goods	5%	7.5%
<b>Social Welfare Surcharge</b>				
1	Any chapter	Levy of Social Welfare Surcharge on imported goods [other than those mentioned at S. No. 3 to 6 below] to finance education, housing and social security	3% of the aggregate duties of Customs [2% + 1%]	Nil
2	Any chapter	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods	---	3% of the aggregate duties of Customs
3	2710	Exemption from Social Welfare Surcharge on motor spirit commonly known as petrol and high speed diesel oil	---	3% of the aggregate duties of Customs
4	7106	Silver (including silver plated with gold or platinum), unwrought or in semi- manufactured form, or in powder form	---	3% of the aggregate duties of Customs
5	7108	Gold (including gold plated with platinum), unwrought or in semi- manufactured form, or in powder form	---	3% of the aggregate duties of Customs
6	Any chapter	Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods	---	Nil
<b>Road and Infrastructure Cess</b>				
1	2710	Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high speed diesel oil	--	₹8 per litre
2	2710	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	2710	Abolition of Additional Duty of Customs [Road Cess] on imported motor spirit commonly known as petrol and high speed diesel oil	₹6 per litre	Nil
4	2710	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.  (ii) High speed diesel oil	₹6.48 per litre  ₹8.33 per litre	₹4.48 per litre  ₹6.33 per litre





# UNDERSTANDING THE UNION BUDGET PROPOSALS 2018

**CMA MRITYUNJAY ACHARJEE**

Associate Vice President, Tax and Chief Internal Auditor, Balmer Lawrie Limited

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

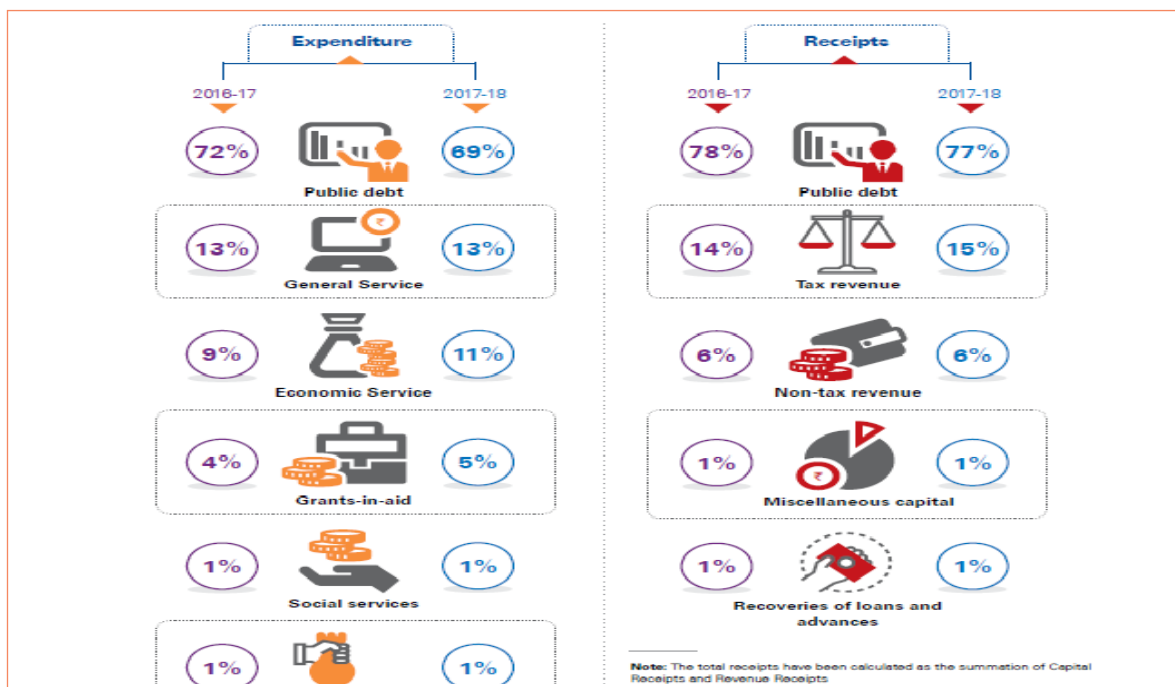
The data presented by the Economic Survey points to slowing down of growth. The GDP growth rate is estimated at 6.5%,

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 from 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

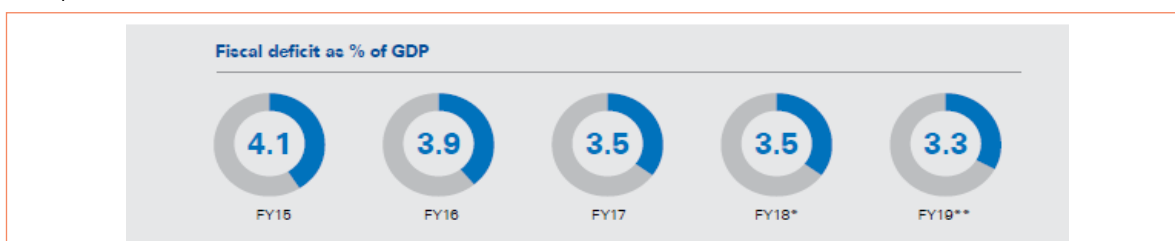
The Survey frankly admits that recovery in investments will not be fast. The question which remains unanswered in the Survey is in spite of the improvement in India's ranking in the Global Ease of Doing Business Index, inspite of the sustained Make In India campaign, inspite of the improvement in India's 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.

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.

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

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 < Rs.250 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 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 (Section 10)**

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 the 1st day of February, 2018, shall be deemed to be the higher of –
  - a) the actual cost of acquisition of such asset; and
  - b) the 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 (Section 11)**

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 or loss, 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 roudade 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 and 115JF)**

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 (Section 80DDB)**

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 other articles intended for agriculture for the purpose of supplying them to its members, or iii. the processing of the agricultural produce of its members

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

*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 (Section 115AD)**

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 on commodity 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 misstatement, 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 120 days 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
<b>Motor spirit commonly known as petrol and high speed diesel oil</b>			
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

# FREQUENTLY ASKED QUESTIONS (FAQs) REGARDING TAXATION OF LONG - TERM CAPITAL GAINS PROPOSED IN FINANCE BILL, 2018

Dated 4<sup>th</sup> February, 2018

Under the existing regime, long term capital gains arising from transfer of long term capital assets, being equity shares of a company or a unit of equity oriented fund or a unit of business trust, is exempt from income-tax under clause (38) of section 10 of the Act. However, transactions in such long - term capital assets are liable to securities transaction tax (STT). Consequently, this regime is inherently biased against manufacturing and has encouraged diversion of investment to financial assets. It has also led to significant erosion in the tax base resulting in revenue loss. The problem has been further compounded by abusive use of tax arbitrage opportunities created by these exemptions.

In order to minimize economic distortions and curb erosion of tax base, it is proposed to withdraw the exemption under clause (38) of section 10 and to introduce a new section 112A in the Income-tax Act, 1961 ('the Act') vide clause 31 of the Finance Bill, 2018 so as to provide that long-term capital gains arising from transfer of such long-term capital asset exceeding one lakh rupees will be taxed at a concessional rate of 10 percent.

Since the introduction of the Finance Bill, 2018 on 1st February, 2018, several queries have been raised in different for a on various issues relating to the proposed new tax regime for taxation of long-term capital gains. The responses to these queries are provided below.

## Q1. WHAT IS THE MEANING OF LONG TERM CAPITAL GAINS UNDER THE NEW TAX REGIME FOR LONG TERM CAPITALGAINS?

Ans.1. Long term capital gains mean gains arising from the transfer of long-term capital asset. The Finance Bill, 2018 proposes to provide for a new long-term capital gains tax regime for the following assets –

- i. Equity Shares in a company listed on a recognized stock exchange;
- ii. Unit of an equity oriented fund; and
- iii. Unit of a business trust.

The proposed regime applies to the above assets, if –

- a. the assets are held for a minimum period of twelve months from the date of acquisition; and
- b. the Securities Transaction Tax (STT) is paid at the time of transfer. However, in the case of equity shares acquired after 1.10.2004, STT is required to be paid even at the time of acquisition (subject to notified exemptions).

## Q2. WHAT ARE THE MODES OF ACQUISITION OF EQUITY SHARES WHICH ARE PROPOSED TO BE EXEMPTED FROM THE CONDITION OF PAYMENT OF STT?

Ans.2. The Central Government had exempted certain modes of acquisition of equity shares for the purposes of clause (38) of section 10 of the Act vide notification no. 43/2017 dated 5<sup>th</sup> of June, 2017. This notification is proposed to be reiterated for the purposes of clause 31 of the Finance Bill, 2018 after its enactment.

## Q3. WHAT IS THE POINT OF CHARGEABILITY OF THE TAX?

Ans.3. The tax will be levied only upon transfer of the long-term capital asset on or after 1<sup>st</sup> April, 2018, as defined in clause (47) of section 2 of the Act.

## Q4. WHAT IS THE METHOD FOR CALCULATION OF LONG-TERM CAPITALGAINS?

Ans.4. The long-term capital gains will be computed by deducting the cost of acquisition from the full value of consideration on transfer of the long-term capital asset.

## Q5. HOW DO WE DETERMINE THE COST OF ACQUISITION FOR ASSETS ACQUIRED ON OR BEFORE 31<sup>ST</sup> JANUARY, 2018?

Ans.5. The cost of acquisition for the long-term capital asset acquired on or before 31<sup>st</sup> of January, 2018 will be the actual cost.

However, if the actual cost is less than the fair market value of such asset as on 31<sup>st</sup> of January, 2018, the fair market value will be deemed to be the cost of acquisition.

Further, if the full value of consideration on transfer is less than the fair market value, then such full value of consideration or the actual cost, whichever is higher, will be deemed to be the cost of acquisition.

## Q6. HOW WILL THE FAIR MARKET VALUE BE DETERMINED?

Ans.6. In case of a **listed equity share or unit**, the fair market value means the highest price of such share or unit quoted on a recognized stock exchange on 31<sup>st</sup> of January, 2018.

However, if there is no trading on 31<sup>st</sup> January, 2018, the fair market value will be the highest price quoted on a date immediately preceding 31<sup>st</sup> of January, 2018, on which it has been traded.

In the case of **unlisted unit**, the net asset value of such unit on 31<sup>st</sup> of January, 2018 will be the fair market value.

**Q7. PLEASE PROVIDE ILLUSTRATIONS FOR COMPUTING LONG-TERM CAPITAL GAINS IN DIFFERENT SCENARIOS, IN THE LIGHT OF ANSWERS TO QUESTIONS 5 AND 6.**

Ans.7. The computation of long-term capital gains in different scenarios is illustrated as under-

**Scenario 1** – An equity share is acquired on 1<sup>st</sup> of January, 2017 at ₹100, its fair market value is ₹200 on 31<sup>st</sup> of January, 2018 and it is sold on 1<sup>st</sup> of April, 2018 at ₹250.

As the actual cost of acquisition is less than the fair market value as on 31<sup>st</sup> of January, 2018, the fair market value of ₹200 will be taken as the cost of acquisition and the **long-term capital gain will be ₹50** (₹250 - ₹200).

**Scenario 2** – An equity share is acquired on 1<sup>st</sup> of January, 2017 at ₹100, its fair market value is ₹200 on 31<sup>st</sup> of January, 2018 and it is sold on 1<sup>st</sup> of April, 2018 at ₹150.

In this case, the actual cost of acquisition is less than the fair market value as on 31<sup>st</sup> of January, 2018. However, the sale value is also less than the fair market value as on 31<sup>st</sup> of January, 2018. Accordingly, the sale value of ₹150 will be taken as the cost of acquisition and the **long-term capital gain will be NIL** (₹150 - ₹150).

**Scenario 3** – An equity share is acquired on 1<sup>st</sup> of January, 2017 at ₹100, its fair market value is ₹50 on 31<sup>st</sup> of January, 2018 and it is sold on 1<sup>st</sup> of April, 2018 at ₹150.

In this case, the fair market value as on 31<sup>st</sup> of January, 2018 is less than the actual cost of acquisition, and therefore, the actual cost of ₹100 will be taken as actual cost of acquisition and the **long-term capital gain will be ₹50** (₹150 - ₹100).

**Scenario 4** – An equity share is acquired on 1<sup>st</sup> of January, 2017 at ₹100, its fair market value is ₹200 on 31<sup>st</sup> of January, 2018 and it is sold on 1<sup>st</sup> of April, 2018 at ₹50.

In this case, the actual cost of acquisition is less than the fair market value as on 31<sup>st</sup> January, 2018. The sale value is less than the fair market value as on 31<sup>st</sup> of January, 2018 and also the actual cost of acquisition. Therefore, the actual cost of ₹100 will be taken as the cost of acquisition in this case. Hence, the **long-term capital loss will be ₹50** (₹50 - ₹100) in this case.

**Q8. WHETHER THE COST OF ACQUISITION WILL BE INFLATIONINDEXED?**

Ans.8. Sub-clause (5) of clause 31 of the Finance Bill, 2018, *inter alia*, provides that the long-term capital gain will be computed without giving effect to the provisions of the second proviso of section 48. Accordingly, it is clarified that the benefit of inflation indexation of the cost of acquisition would not be available for computing long-term capital gains under the new tax regime.

**Q9. WHAT IS THE DATE OF COMMENCEMENT OF THE PROPOSED NEW TAX REGIME?**

Ans.9. The proposed new tax regime will apply to transfer made on or after 1<sup>st</sup> April, 2018. The existing regime providing exemption under clause (38) of section 10 of the

Act will continue to be available for transfer made on or before 31<sup>st</sup> March, 2018.

**Q10. WHAT WILL BE THE TAX TREATMENT OF ACCRUED GAINS UPTO 31<sup>ST</sup> JANUARY 2018?**

Ans.10. As the fair market value on 31<sup>st</sup> January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans.7), the gains accrued upto 31<sup>st</sup> January, 2018 will continue to be exempt.

**Q11. WHAT WILL BE THE TAX TREATMENT OF TRANSFER OF SHARE OR UNIT BETWEEN 1<sup>ST</sup> FEBRUARY 2018 TO 31<sup>ST</sup> MARCH 2018?**

Ans.11. As replied in answer 9, the new tax regime will be applicable to transfer made on or after 1<sup>st</sup> April, 2018, the transfer made between 1<sup>st</sup> February, 2018 and 31<sup>st</sup> March, 2018 will be eligible for exemption under clause (38) of section 10 of the Act.

**Q12. WHAT WILL BE THE TAX TREATMENT OF TRANSFER MADE ON OR AFTER 1<sup>ST</sup> APRIL 2018?**

Ans.12. The long-term capital gains exceeding ₹1 Lakh arising from transfer of this asset made on after 1<sup>st</sup> April, 2018 will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31<sup>st</sup> January, 2018 as explained in Ans. 10.

**Q13. WHAT IS THE DATE FROM WHICH THE HOLDING PERIOD WILL BECOUNTED?**

Ans.13. The holding period will be counted from the date of acquisition.

**Q14. WHETHER TAX WILL BE DEDUCTED AT SOURCE IN CASE OF GAINS BY RESIDENT TAXPAYER?**

Ans.14. No. There will be no deduction of tax at source from the payment of long-term capital gains to a resident tax payer.

**Q15. WHETHER TAX WILL BE DEDUCTED AT SOURCE IN CASE OF PAYMENT OF LONG - TERM CAPITAL GAINS BY NON-RESIDENT TAX PAYER (OTHER THAN A FOREIGN INSTITUTIONALINVESTOR)?**

Ans.15. Ordinarily, under section 195 of the Act, tax is required to be deducted on payments made to non-residents, at the rates prescribed in Part-II of the First Schedule to the Finance Act. The rate of deduction in the case of capital gains is also provided therein. In terms of the said provisions, tax at the rate of 10 per cent will be deducted from payment of long-term capital gains to a non-resident tax payer (other than a Foreign Institutional Investor). The capital gains will be required to be computed in accordance with clause 31 of the Finance Bill, 2018.

**Q16. WHETHER TAX WILL BE DEDUCTED AT SOURCE IN CASE OF PAYMENT OF LONG - TERM CAPITAL GAINS BY FOREIGN INSTITUTIONAL INVESTORS (FIIS)?**

Ans.16. No. There will be no deduction of tax at source from payment of long-term capital gains to a Foreign Institutional

Investor in view of the provisions of sub-section (2) of section 196D of the Act.

**Q17. HOW WILL THE GAINS IN THE CASE OF FIIS BE DETERMINED?**

Ans.17. The long - term capital gains in case of FIIs will be determined in the same manner as explained in earlier answers in the case of resident taxpayers.

**Q18. WHAT WILL BE THE TREATMENT OF THE GAINS ACCRUED UPTO 31<sup>ST</sup> JANUARY 2018 IN THE CASE OF FIIS?**

Ans.18. In case of FIIs also, there will be no tax on gains accrued upto 31<sup>st</sup> January, 2018 as explained in Ans. 10.

**Q19. WHAT WILL BE THE TAX TREATMENT OF TRANSFER OF SHARE OR UNIT BETWEEN 1<sup>ST</sup> FEBRUARY 2018 TO 31<sup>ST</sup> MARCH 2018 IN THE CASE OF FIIS?**

Ans.19. As explained in Ans. 11, in case of FIIs also, the transfer made between 1<sup>st</sup> February, 2018 and 31<sup>st</sup> March, 2018 will be eligible for exemption under clause (38) of section 10 of the Act.

**Q20. WHAT WILL BE THE TAX TREATMENT OF TRANSFER MADE ON OR AFTER 1<sup>ST</sup> APRIL 2018 IN CASE OF FIIS?**

Ans.20. As explained in Ans. 12, in case of FIIs also, the long - term capital gains exceeding ₹1 Lakh arising from transfer of the seas set made on after 1<sup>st</sup> April, 2018 will be taxed at 10 per cent. However, there will be no tax on gains accrued upto 31<sup>st</sup> January, 2018 as explained in Ans. 10.

**Q21. WHAT WILL BE THE COST OF ACQUISITION IN THE CASE OF BONUS SHARES ACQUIRED BEFORE 1<sup>ST</sup> FEBRUARY 2018?**

Ans.21. The cost of acquisition of bonus shares acquired before 31<sup>st</sup> January, 2018 will be determined as per sub-clause (6) of clause 31 of the Finance Bill, 2018. Therefore, the fair market value of the bonus shares as on 31<sup>st</sup> January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans. 7), and hence, the gains accrued upto 31<sup>st</sup> January, 2018 will continue to be exempt.

**Q22. WHAT WILL BE THE COST OF ACQUISITION IN THE CASE OF RIGHT SHARE ACQUIRED BEFORE 1<sup>ST</sup> FEBRUARY 2018?**

Ans.22. The cost of acquisition of right share acquired before 31<sup>st</sup> January, 2018 will be determined as per sub-clause (6) of clause 31 of the Finance Bill, 2018. Therefore, the fair market value of right share as on 31<sup>st</sup> January, 2018 will be taken as cost of acquisition (except in some typical situations explained in Ans.7), and hence, the gains accrued upto 31<sup>st</sup> January, 2018 will continue to be exempt.

**Q23. WHAT WILL BE THE TREATMENT OF LONG-TERM CAPITAL LOSS ARISING FROM TRANSFER MADE BETWEEN 1<sup>ST</sup> FEBRUARY, 2018 AND 31<sup>ST</sup> MARCH, 2018?**

Ans.23. As the exemption from long-term capital gains under clause (38) of section 10 will be available for transfer made between 1<sup>st</sup> February, 2018 and 31<sup>st</sup> March, 2018; the long-term capital loss arising during this period will not be allowed to be set- off or carried forward.

**Q24. WHAT WILL BE THE TREATMENT OF LONG-TERM CAPITAL LOSS ARISING FROM TRANSFER MADE ON OR AFTER 1<sup>ST</sup> APRIL, 2018?**

Ans.24. Long-term capital loss arising from transfer made on or after 1<sup>st</sup> April, 2018 will be allowed to be set-off and carried forward in accordance with existing provisions of the Act. Therefore, it can be set-off against any other long-term capital gains and unabsorbed loss can be carried forward to subsequent eight years for set-off against long-term capital gains.

**POST INTRODUCTION OF GST, REVENUE FROM INDIRECT TAXES HAS BEEN ESTIMATED TO BE INCREASED SHARPLY FOR THE BUDGET ESTIMATES 2018-19**

	<b>Actual 2016-2017</b>	<b>Revised Estimates 2017-2018</b>	<b>Budget Estimates 2018-2019</b>
<b>Goods &amp; Service Tax (GST)</b>	-	<b>4.46 Lacs</b>	<b>7.46 Lacs</b>
<b>Customs</b>	<b>2.25 Lacs</b>	<b>1.35 Lacs</b>	<b>1.12 Lacs</b>
<b>Excise</b>	<b>3.80 Lacs</b>	<b>2.76 Lacs</b>	<b>2.59 Lacs</b>
<b>Service Tax</b>	<b>2.54 Lacs</b>	<b>0.79 Lacs</b>	-
<b>Total TAX REVENUE</b>	<b>8.62 Lacs</b>	<b>9.37 Lacs</b>	<b>11.18 Lacs</b>
<b>% increase</b>		<b>8.8%</b>	<b>19.31%</b>

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## GOODS AND SERVICES TAX

### CIRCULARS & ORDERS

**Circular No. 31/5/2018-GST**

**Dated: 9th February, 2018**

The Central Government vide Circular No. 31/05/2018-GST dated 9<sup>th</sup> February, 2018 has clarified the monetary limits up to which the functions in relation to issue of show cause notices and orders can be exercised by the proper officers.

Sl. No.	Officer of Central Tax	Monetary limit of the amount of tax (including cess) not paid or short paid or erroneously refunded or input tax credit of respective taxes wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act /section 20 of IGST Act.		
		Central tax	Integrated tax	Central tax and integrated tax
(1)	(2)	(3)	(4)	(5)
1.	Superintendent of Central Tax	Not exceeding ₹10 lakhs	Not exceeding ₹20 lakhs	Not exceeding ₹20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above ₹10 lakhs and not exceeding ₹1 crore	Above ₹20 lakhs and not exceeding ₹2 crores	Above ₹20 lakhs and not exceeding ₹2 crores
3.	Additional or Joint Commissioner of Central Tax	Above ₹1 crore without any limit	Above ₹2 crores without any limit	Above ₹2 crores without any limit

**Circular No. 32/6/2018-GST**

**Dated: 12th February, 2018**

The Central Government vide Circular No. 32/06/2018-GST dated 12th February 2018 has clarified certain issues regarding levy of GST on supply of services which are as follows:

S. No.	Issue	Clarification
1.	Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate).	Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT (Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]
2.	Is GST leviable on the fee/amount charged in the following situations/cases: – (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account. (2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required. (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.	Services by any court or Tribunal established under any law for the time being in force are neither a supply of goods nor services. Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. However, they are clothed with the characteristics of a tribunal on account of the following: - (1) Statement of objects and reasons as mentioned in the Consumer Protection Bill state that one of its objects is to provide speedy and simple redressal to consumer disputes, for which a quasi judicial machinery is sought to be set up at District, State and Central levels. (2) The President of the District/ State/National Disputes Redressal Commissions is a person who has been or is qualified to be a District Judge, High Court Judge and Supreme Court Judge respectively. (3) These Commissions have been vested with the powers of a civil court under CPC for issuing summons, enforcing attendance of defendants/witnesses, reception of evidence, discovery/production of documents, examination of witnesses, etc.



		<p>(4) Every proceeding in these Commissions is deemed to be judicial proceedings as per sections 193/228 of IPC.</p> <p>(5) The Commissions have been deemed to be a civil court under CrPC.</p> <p>(6) Appeals against District Commissions lie to State Commission while appeals against the State Commissions lie to the National Commission. Appeals against National Commission lie to the Supreme Court.</p> <p>In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.</p>
3.	Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@ 28%?	Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [Sl. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 refers]
4.	What is the GST rate applicable on rental services of self-propelled access equipment (Boom Scissors/ Telehandlers)? The equipment is imported at GST rate of 28% and leased further in India where operator is supplied by the leasing company, diesel for working of machine is supplied by customer and transportation cost including loading and unloading is also paid by the customer	Leasing or rental services, with or without operator, for any purpose are taxed at the same rate of GST as applicable on supply of like goods involving transfer of title in goods. Thus, the GST rate for the rental services in the given case shall be 28%, provided the said goods attract GST of 28%. IGST paid at the time of import of these goods would be available for discharging IGST on rental services. Thus, only the value added gets taxed. [Sl. No 17(vii) of notification No. 11/2017- CT(Rate) dated 28.6.17 as amended refers]. <i>Comment: please note that there should be no further confusion and rental of vehicles or equipment will be liable to 'rate of GST on supply' of them. There is no general rate on rental at 18%.</i>
5.	Is GST leviable in following cases: (1) Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST? (2) Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals? (3) Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.	Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017 - CT (Rate) dated 28.06.2017 as amended refers]. (1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt. (2) Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India [Para 2(zg) of notification No. 12/2017-CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt. (3) Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. <i>Comment: Care should be taken to charge tax on supplies to anyone 'other than patient' by the Clinical Establishment. And supplies directly 'by' third person to patient or attender are not exempt under this category.</i>
6.	Appropriate clarification may be issued regarding taxability of Cost Petroleum	As per the Production Sharing Contract (PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum". The

		<p>relationship of the oil exploration and production contractors with the Government is not that of partners but that of licensor/lessor and licensee/lessee in terms of the Petroleum and Natural Gas Rules, 1959. Having acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum, contractors carry out the exploration and production of petroleum for themselves and not as a service to the Government. Para 8.1 of the Model Production Sharing Contract (MPSC) states that subject to the provisions of the PSC, the Contractor shall have exclusive right to carry out Petroleum Operations to recover costs and expenses as provided in this Contract. The oil exploration and production contractors conduct all petroleum operations at their sole risk, cost and expense. Hence, cost petroleum is not a consideration for service to GOI and thus not taxable per se. However, cost petroleum may be an indication of the value of mining or exploration services provided by operating member to the joint venture, in a situation where the operating member is found to be supplying service to the oil exploration and production joint venture.</p>
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## CUSTOMS

### TARIFF

**Notification No. 24/2018-Customs**  
**Dated: 6<sup>th</sup> February, 2018**

This notification is in regard to increase of import duty on all types of sugar [under tariff head 1701, Raw sugar, Refined or White sugar, Raw sugar if imported by bulk consumer from the present 50% to 100% (Tariff rate) with immediate effect and without an end date.

**Notification No. 25/2018-Customs**  
**Dated: 6<sup>th</sup> February, 2018**

This notification is in regard to increase of BCD tariff rate on Chana (Chickpeas), [Tariff item 0713 20 0] from 30% to 40% by invoking section 8A (1) of the Customs Tariff Act, 1975 and accordingly, the effective rate of BCD on Chana (Chickpeas), will also be 40%

**Notification No. 26/2018-Customs**  
**Dated: 12<sup>th</sup> February, 2018**

This notification is a further amendment to the notification No. 50/2017- Customs, dated the 30th June 2017 so as to reduce the Basic Customs Duty on motorcycles falling under tariff heading 8711.

# PRESS RELEASE

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise & Customs

New Delhi, 07<sup>th</sup> February, 2018

New Delhi, 09<sup>th</sup> February, 2018

## Indian Advance Pricing Agreement regime moves forward with signing of five UAPAs and two BAPAs by CBDT in January, 2018

The Central Board of Direct Taxes (CBDT) has entered into five Unilateral Advance Pricing Agreements (UAPA) and two Bilateral Advance Pricing Agreements (BAPA) during the month of January, 2018. With the signing of these Agreements, the total number of APAs entered into by the CBDT has gone up to 196. This includes 178 Unilateral APAs and 18 Bilateral APAs. In the current financial year, a total of 44 APAs (7 Bilateral and 37 Unilateral) have been signed till date.

The 2 Bilateral Agreements signed in the month of January, 2018, inter alia, include the first BAPA signed with USA.

The 7 APAs entered into during January, 2018 pertain to various sectors of the economy like Banking, Insurance, Investment Advisory, Information Technology, Chemicals and Engineering. The international transactions covered in these agreements include provision of IT enabled services, provision of software development services, contract manufacturing, payment of royalty, sale of goods, etc.

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

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## Direct Tax Collections for F.Y. 2017-2018 show Growth of 19.3% up to January, 2018

The provisional figures of Direct Tax collections up to January, 2018 show that net collections are at **₹6.95 lakh crore** which is **19.3%** higher than the net collections for the corresponding period of last year. The net Direct Tax collections represent **69.2%** of the **Revised Estimates** of Direct Taxes for F.Y. 2017-18 (Rs.10.05 lakh crore). Gross collections (before adjusting for refunds) have increased by **13.3%** to **₹8.21 lakh crore** during April 2017 to January 2018. Refunds amounting to **₹1.26 lakh crore** have been issued during April 2017 to January 2018.

The growth rate for **net** collections for Corporate Income Tax (CIT) is **19.2%** and for Personal Income Tax (PIT) is **18.6%**.

# JUDGEMENTS

## INDIRECT TAX

### APPELLANT'S ELIGIBILITY TO BE TAXED AS PER THE COMPOSITE SCHEME UNDER RULE 2007

**Bridge & Roof Company (I) Limited vs. Commissioner of Central Excise, Jaipur**  
Order No. -58254-58255/2017  
Date of Pronouncement: - 1.12.2017

#### FACT OF THE CASE

- 1) The appellants were engaged in providing construction services/erection commissioning or installation services in pursuance to a contract with M/S BHEL for a power project.
- 2) The contract was entered into on 15.12.2006 .From January 2007; the appellants were registered with the department & discharged service tax under the category of commercial or industrial construction service.
- 3) After introduction of "Works Contract Service" w.e.f 1.06.2007 they started paying service tax under works contract service& availing composition rate as per works contract (composition scheme for payment of service tax) Rules,2007.
- 4) The revenue dept. objected the said payment on the ground that:-
  - Appellant cannot change the classification of service midway.
  - The composition scheme will not be available to an ongoing contract on which service tax has been paid prior to 1.6.2007 under a different classification.
- 5) Proceedings initiated against the appellant regarding different service tax liability & imposition of penalty.
- 6) The Id. Counsel of the Appellant explained that the contract executed by the appellant with M/S BHEL was of composite nature, involving supply of goods as well as provision of service. Such contracts were liable to service tax only w.e.f 1.06.2007 as per Honorable Supreme Court's order in Larsen & Tubro Ltd. 2015(39) STR 913(SC).The appellants have not availed any input credit for providing service though it is permitted. So, the appellants are eligible for availing the said rules of composite scheme.

#### DECISION OF THE CASE

- 1) In terms of decision of Honorable Supreme Court in Larsen & Tubro, (Supra) composite work contract were not liable to service tax prior to 1.06.2007 as there was no machinery provision.
- 2) The Tribunal in the case of ABL Infrastructure Pvt. Ltd. 2015(38) STR 1185 (Tri. Mumbai) recorded that the substantial benefit cannot be denied for procedural deficiency, if any.
- 3) The appellants did not contest the rate of service tax either 2% or 4% .it depends upon the effective rate of duty applicable during the period of providing service.

In view of the above discussion & analysis setting aside the impugned order of the appeal of the appellants for availing of

composite scheme from inception of the execution of contract is allowed.

## DIRECT TAX

**COMMISSIONER OF INCOME TAX, THIRUVANANTHAPURAM V. SMT. VASANTHAANIRUDHAN**  
Reported in [2018] 90 [taxmann.com](#) 74 (Kerala)

#### FACT OF THE CASE

In the present case the respondent was the wife and legal heir of the assessee who now deceased had filed return of income for the assessment year 1990-91 on dated.4<sup>th</sup> April 1991 declaring an income of ₹97,430. Original assessment was completed by an addition of ₹20,65,000/- out of which, unexplained income worked out ₹17,40,000/- on which penalty was imposed at 100 per cent of the tax sought to be evaded. Commissioner (Appeals) had set aside penalty order taking a view that there was no specific mention of proceedings taken under Explanation 1(B) to section 271(1) which was an imperative mandate. The ITAT had confirmed order of Commissioner (Appeals). The Tribunal, without an independent consideration, found that the reasoning of the Commissioner (Appeals) is proper and sustainable. On appeal before Hon'ble High Court, the issue for consideration was , whether when a notice was issued under section 271, Explanation also being included under provision, assessee was sufficiently put to notice of entire provision as available under section 271(1) and therefore, impugned order setting aside levy of penalty was not sustainable ?

#### DECISIONS OF THE CASE

The Hon'ble High Court of Kerala held as follows. Admittedly, there was an unexplained income as discernible from the records maintained by the assessee. The assessee had a duty to explain and substantiate the source of such income. The assessee has an explanation of diversion of materials as retained from an abandoned Government contract, which was not fully accepted by the Tribunal. When the explanation has not been accepted by the Tribunal in the assessment proceedings, there is no reason why in the penalty proceedings the same should be considered as a *bona fide* explanation, especially when there is nothing more available with the Appellate Authority considering the penalty proceedings, to substantiate such diversion. Admittedly, there was no such substantiating material produced by the assessee and available with the Tribunal at the earlier stage when the assessment proceedings were considered. In such circumstances, it is opined that the addition made of computation of income as available definitely comes under *Explanation 1(B)* of Section 271(1) of the Act. It is also noticed earlier, the Tribunal had merely adopted the reasoning of the Appellate Authority and the hence, answer the questions of law in favour of the Revenue and against the assessee.

The questions framed having been answered in favour of the Revenue, the orders of the Tribunal and the C.I.T. (Appeals) are set aside and the original order restored. It is made clear that the present respondent being a legal heir of the assessee, recovery would be made only to the extent of the estate of

the assessee capable of meeting the liability as provided in Section 159(6) of the Act.

**VAN OORD ACZ V. CHIEF COMMISSIONER OF INCOME-TAX-I CHENNAI**

Reported in [2018] 89 taxmann.com 342 (Madras)

**FACTS OF THE CASE**

In the present case, the assessee, a non-resident company, filed its return of income within the time limit prescribed under section 139(1). The return was processed under section 143(1) and interest was charged under section 234B and under section 234C.

The petitioner filed an application before the Chief Commissioner seeking waiver of the interest on ground that the assessee could not pay any tax unless the case was decided by the Advance Ruling Authority (AAR). Further, it was contended that the liability to pay tax would be fastened on the assessee only due to the decision of the AAR and it could not pay any tax unless the case was decided by the AAR. Thus, it was submitted that the levy of interest was not sustainable. The Chief Commissioner rejected the application by observing that at least 90 per cent of the amount should be paid as advance tax which the assessee failed to do. He further, held that the assessee commenced its operation in 1997 and having chosen to apply for AAR in April 1999 could not be attribute the delay in payment of taxes to the receipt of ruling of AAR in September 2000. The clear liability to pay advance tax on contract receipts by computing the income as per section 44BBB could not be postponed by filing an application before the AAR. Therefore, the application for waiver of interest was not acceptable.

Against above decision the Writ was before Hon'ble High Court of Madras.

**DECISIONS OF THE CASE**

It was held that, since the liability to pay tax would be fastened on assessee only due to decision of AAR and it could not pay any tax unless case was decided by AAR, levy of interest under both these provisions was not sustainable. Accordingly, the writ petition is allowed, the impugned order is set aside and consequently the petitioner is not liable to pay interest under sections 234B and 234C of income tax act.

**INTEREST INCOME FROM CAPITAL GAINS BONDS IS TAXABLE AS "OTHER INCOME"**

**Sonega Trades & Investments Private Limited vs. Income Tax Officer (ITAT Mumbai)**

Case Reference: - I.T.A. No.4286/Mum/2013

Date of Pronouncement: - 17/01/2018

**FACT OF THE CASE**

- 1) The assessee, a resident engaged in the business of warehousing and letting out of House Property has filed its return of income for the relevant assessment year and declared loss of ₹12,53,864.
- 2) During the course of assessment proceedings, the Assessing Officer (AO) noticed that assessee earned interest of ₹2.97 Lakhs from Capital Gains Bonds which was treated as business income and certain other

miscellaneous income aggregating to ₹48,407 was also claimed as business income.

- 3) But the AO assessed all the said incomes under the head income from other sources.
- 4) Then Assessee approached CIT (A) against the order of the AO. After analyzing the facts the authority also confirmed the action of the AO.
- 5) The assessee made an further appeal before the tribunal against the action of the lower authorities.

**DECISION OF THE CASE**

- 1) The tribunal bench said that the assessee could not claim any expenditure from Income from House Property outside the ambit of Section 24. The expenditure as claimed by the assessee was not covered by the statutory provisions and hence not allowable.
- 2) Tribunal bench observed that the interest income from capital gains bonds was rightly assessed as "Income from Other Sources" by the A.O.
- 3) Similarly, the assessee failed to show that miscellaneous income aggregating to ₹48,407 was related to assessee's business and therefore, it had rightly been assessed as "Income from other Sources" by the A.O.

So, finally it was decided that interest income earned from capital gains bonds would be taxable under the head "other income" and the same cannot be taxed as business income.

**REQUIREMENTS FOR REGISTRATION OF CHARITABLE INSTITUTION U/S 12A OF THE IT ACT**

**Vidyadayani Shiksha Samiti vs. CIT (ITAT Delhi)**

Case Reference: - ITA No.309/Del/2016

Date of pronouncement -14.12.2017

**FACT OF THE CASE**

- 1) The assessee filed an application for registration under section 12A(1) before learned CIT as on 30.03.2015
- 2) Two factors namely the object of charitable purpose & genuineness of activities have to be proved before granting registration. In the absence of the above, CIT rejected the application of granting registration under section 12(A) of the IT Act.
- 3) Being aggrieved with such order of the Id. CIT, the assessee made further appeal before the tribunal.
- 4) Referring Honorable High Court's decision , the learned counsel of the tribunal points out the following:-
  - The learned CIT is supposed to examine the object of the society / trust & not to examine the application of the income at the stage of granting registration.
  - The Id. CIT is not required to examine whether the income derived by trust is being spent for charitable purpose or the trust is earning profit while granting registration.

**DECISION OF THE CASE**

Since the assessee, the trust was established for charitable purpose & was being run, nothing more requires to be established the genuineness of it. Not only this, but also "Education" per se is charitable activity. The books of accounts of the assessee trust is required to be examined year to year only during the claim of exemption under section

11. But it is not essential at the stage of granting registration. So the rejection of the claim of registration of CIT is not justified. Setting aside the direction of CIT, the Tribunal directed him to allow the registration under section 12(A) of IT Act.

**GRATUITY PAYMENT TO LIC IS ELIGIBLE FOR IT DEDUCTION  
DISTRICT CO-OPERATIVE BANK VS. INCOME TAX OFFICER  
(ITO), VISAKHAPATNAM**

**Case Reference: - I.T.A.No.515/Vizag/2014  
Date of Pronouncement: - 25.01.2018**

**FACT OF THE CASE**

- 1) The assessee, Co-operative Bank filed its return of income for the relevant assessment year and claimed deduction towards payment of gratuity premium to LIC.
- 2) During the assessment proceedings, the Assessing Officer (AO) observed that the assessee has debited a sum of ₹4,60,59,225 to the Profit & Loss account towards the gratuity premium paid/payable to LIC. Out of which ₹70 lakhs was paid to LIC of India and a sum of ₹3,90,59,225/- was payable at the end of the year and the assessee has paid the remaining premium during the financial year before the due date of filing the Return of Income.
- 3) He further observed that assessee has not satisfied the conditions of section 36(1) (v) and also section 40A (7) (b) of the Act to be eligible for deduction. He was of the view that per section 40A (7) of the Act unless the assessee makes the payment to the approved gratuity fund, the deduction is not allowable.
- 4) On appeal CIT (A) also upheld the order passed by the assessee. Aggrieved by the order of the authority assessee approached the tribunal on further appeal.
- 5) Before the bench council for the assessee advocate, submitted that the assessee has contributed the group gratuity premium to the LIC of India under Master proposal group scheme. The payments made towards the gratuity in the form of premiums to the LIC of India have no control over the assessee bank to utilize the same for its business purpose. It was also argued that since the payment was made to the approved schemes of the LIC, the payment made to the LIC under gratuity scheme is completely under the control and management of the LIC of India and the assessee has no control on utilization of the funds and also submitted all the proof documents before the bench.

**DECISION OF THE CASE**

- 1) Analyzing the above facts, the Tribunal bench observed that while perusing the available material facts it is clear that the assessee had made application to LIC of India under pension and group schemes, and taken policy under Master proposal for group for payment of gratuity and is contributing the sums to the LIC of India towards the group gratuity on actuarial basis. The assessee has not made any provision and made the payment before filing the return of income and the assessee did not claim any further deduction as expenditure. Thus it can be analyzed that there is no double deduction claimed by the assessee.
- 2) The division bench further observed that moreover, the expenditure claimed by the assessee under group gratuity scheme to LIC of India was allowed in the

earlier years also. While concluding the issue, the bench further declared that payment made to gratuity fund maintained with LIC has no control over the irrevocable trust created exclusively for the benefit of employees and deduction shall be allowed.

- 3) Finally, it was held that the payment of gratuity to Life Insurance Corporation of India is eligible for deduction under section 36(1) (v) & section 40A (7) (b) of the Income Tax Act 1961.

**DELHI HC CONFIRMS ITAT ORDER FAVORING AIRPORT  
AUTHORITY OF INDIA**

**Airport Authority of India vs. ITAT (Delhi High Court)**

**Case Reference:-ITA 12/2018  
Date of Order: - 8th January, 2018**

**FACT OF THE CASE**

- 1) As per Section 14A, while computing the total income of any assessee, no deduction will be permitted in respect of any expense incurred in relation to any income which is exempt from income tax.
- 2) The Airport Authority of India filed its return for the relevant assessment year and the same was revised thereafter.
- 3) During the assessment proceedings the Assessing Officer (AO) noticed that assessee had shown dividend income of ₹142.5 crores which was exempt from taxation.
- 4) AO also added a sum of ₹4,90,88,000 to the income of the assessee under Section 14A of the Income Tax Act 1961 as the expenditure involved exempt income.
- 5) On appeal, both lower authorities such as CIT (A) and ITAT found that the exempt income of ₹142.5 crores had not been obtained and that it was only a proposed dividend and also passed order in favor of the assessee.
- 6) Aggrieved by the order of the lower authorities revenue was on appeal before the Court.

**DECISION OF THE CASE**

After analyzing the facts and materials, the High Court upheld the order passed by the lower authorities. The Court also observed that the aforesaid amount was only a proposed dividend and application of Section 14A of the 1961 Act could not have arisen in this case.

High Court of Delhi recently confirmed the order passed by Income Tax Appellate Tribunal in favor of the assessee, the Airport Authority of India.

**BROKERAGE/COMMISSION PAID IN CONNECTION WITH  
SHARE TRANSACTION IS NOT SUBJECT TO TDS**

**SPT Securities Pvt. Ltd. vs DCIT (Kolkata bench of Income Tax  
Appellate Tribunal)  
Date - 29.01.2018**

**Fact of the Case**

- 1) Assessee is a private company in the present case has duly filed its return of income and declared a total income of ₹15,75,802.
- 2) During the course of assessment proceedings the Assessing Officer (AO) found that the assessee had paid sub brokerage of ₹10,67,725 for doing share business in

- its name on behalf of the company as its agents, which was fixed on the basis of the volume of the transactions & and he also disallowed the expenses of the said amount. Hence he opined that TDS on such payments should have been deducted.
- 3) However, Assessee maintained that as per Section 194H of the Income Tax Act 1961 TDS was not deductible on brokerage on securities.
  - 4) On appeal, the CIT (A) also confirmed the addition made by the AO.
  - 5) Aggrieved by the order of the authority, assessee made appeal before the tribunal bench.

#### DECISION OF THE CASE

It was decided by the Tribunal bench that brokerage paid in connection with the services rendered in the course of business of buying and selling of units of mutual fund or in relation to transactions pertaining to mutual fund is not covered by provisions of tax at source in view of the explanation (i) to section 194H of the Act. Therefore it can be concluded that brokerage or commission paid in connection with share transaction is not liable for TDS.

.....

**WHETHER SECTION 2(22)(E) GETS ATTRACTED IN AS MUCH AS A LOAN HAS BEEN MADE TO A SHAREHOLDER, WHO AFTER THE AMENDMENT, IS A PERSON WHO IS THE BENEFICIAL OWNER OF SHARES HOLDING NOT LESS THAN 10% OF THE VOTING POWER IN THE COMPANY**

**NATIONAL TRAVEL SERVICES vs. COMMISSIONER OF INCOME TAX,  
DELHI, VIII (Supreme Court)  
CIVIL APPEAL NOS. 2068-2071 OF 2012  
Date of pronouncement – 18.01.2018**

#### FACT OF THE CASE

- 1) Assessee is a partnership firm consisting 3 partners namely Mr. Naresh Goyal, Mr. Surinder Goyal & M/S Jet Enterprises Pvt. Ltd. Having a profit sharing ratio 35%, 15%, 50% respectively.
- 2) The assessee, firm had taken a loan of ₹28,52,41,516 from M/S Jet Enterprises Pvt. Ltd., New Delhi
- 3) The assessee subscribed to the equity shares of M/S Jet Enterprises Pvt. Ltd. In the name of two of its partners namely Naresh & Surinder totaling 48.19% of total equity share.
- 4) The question that arises in these appeals
  - Whether loan has been made to their shareholder who is beneficial owner of shares holding not less than 10% of voting power in the company.
  - Whether the loan is made to a concern in which such shareholder is a partner & in which he has substantial interest of 20% or more of the share of the profit of the firm.

#### DECISION OF THE CASE

- 1) The loan granted to a shareholder has to be returned to the company. it does not become the income of the shareholder. Hence, a loan given to H.U.F cannot be considered as a loan advanced to a "shareholder of a company".
- 2) Hence, a loan given to H.U.F cannot be considered as a loan advanced to a "shareholder of a company".
- 3) The shareholder must be a person whose name is on the register of members of the company.

- 4) Whether the assessee who is a partnership firm can be treated as shareholder because of the reason that it has purchased the shares in the name of the two partners. The division bench stated that a partnership firm can be treated as a shareholder but that it is not necessary that it has to be a registered shareholder.
- 5) One cannot be a registered owner & beneficial owner in the sense of a beneficiary of a trust or otherwise at the same time it is clear therefore that the moment there is a shareholder who need not necessarily be a member of the company on its register.
- 6) On the basis of the above discussion & analysis there is some confusion for coming to the final decision. So, this appeal has considered be placed before honorable Chief Justice of India order to constitute an appropriate bench of three learned Judges in order to have a relook at the entire Question.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDER

Date	Return Type
20 <sup>th</sup> February, 2018	GSTR 3B for the month of January, 2018
20 <sup>th</sup> February, 2018	GSTR 5 for the month of January, 2018
10 <sup>th</sup> March, 2018	GSTR 1 for the month of January, 2018 (for persons with Turnover above 1.5 Crore)
20 <sup>th</sup> March, 2018	GSTR 5 for the month of February, 2018
20 <sup>th</sup> March, 2018	GSTR 3B for February, 2018
31 <sup>st</sup> March, 2018	GSTR 6 for July to February, 2018
18 <sup>th</sup> April, 2018	GSTR 4 for the month of January - March, 2018
20 <sup>th</sup> April, 2018	GSTR 3B for March, 2018
20 <sup>th</sup> April, 2018	GSTR 5 for the month of March, 2018
30 <sup>th</sup> April, 2018	GSTR 1 for the month of Jan- March, 2018 (for persons with Turnover below 1.5 Crore)
30 <sup>th</sup> April, 2018	GSTR 6 for July 2017 - February, 2018

## DIRECT TAX CALENDER – FEBRUARY, 2018

### 07.02.2018:

- Due date for deposit of Tax deducted/collected for the month of January, 2018. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

### 14.02.2018:

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA in the month of December, 2017
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB in the month of December, 2017

### 15.02.2018:

- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of January, 2018 has been paid without the production of a challan
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending December 31, 2017.

## DIRECT TAX CALENDER – MARCH, 2018

### 01.03.2018:

- Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2016-17.

### 02.03.2018:

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and 194-IB in the month of January, 2018.



**07.03.2018:**

- Due date for deposit of Tax deducted/collected for the month of February, 2018. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

**15.03.2018:**

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA and 194-IB in the month of January, 2018
- Due date for furnishing of Form 24G by an office of the Government where TDS for the month of February, 2018 has been paid without the production of a challan.
- Fourth instalment of advance tax for the assessment year 2018-19.
- Due date for payment of whole amount of advance tax in respect of assessment year 2018-19 for assessee covered under presumptive scheme of section 44AD/ 44ADA.

**30.03.2018:**

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA and 194-IB in the month of February, 2018.

**31.03.2018:**

- Due date for linking of Aadhaar number with PAN.
- Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2016-17.
- Country-By-Country Report in Form No. 3CEAD by a parent entity or an alternate reporting entity or any other constituent entity, resident in India, for the accounting year 2016-17.

**WEBINAR CALENDAR UPTO 28<sup>th</sup> FEBRUARY, 2018**

Sl. No	Date	Time	Topic of the Webinar	Name of the Faculty
1.	21.02.2018 (Wednesday)	11:00 – 12:00 PM	Opportunities for Cost Accountants under “Presumptive Taxation”	CMA. Vishwanath Bhat

**Please note:** One CEP hour awarded for attending each webinar

**PANEL DISCUSSION ON UNION BUDGET 2018-19 ORGANISED BY  
TAX RESEARCH DEPARTMENT AND INSTITUTE OF COST  
ACCOUNTANTS OF INDIA, ROURKELA CHAPTER ON  
4<sup>TH</sup> FEBRUARY 2018**



Guest of honour, Sri D N Kar, IRS, Principal Commissioner Income Tax, Sambalpur and Cuttack, Odisha Lighting the Lamp



Cross Section of the Audience



Inaugural session On the dais, Chief Guest ED, Rourkela Steel Plant Shri Ashwini Kumar, Shri B Masoodi, Chairman ICMAI Rourkela, Shri D N Kar, IRS and CMA N Mishra, Chairman Taxation Committee, ICMAI



Technical session, On the dais, Shri B Masoodi, Chairman ICMAI Rourkela, Shri D N Kar, IRS, Panelist CMA Mryutunjay Acharjee and CMA Niranjan Swain, Moderator CMA P K Puhane seen

**ANNUAL LECTURE ON THE UNION BUDGET “2018 - 19”,  
BY MR. HOMI P. RANINA, EMINENT LAWYER AND TAX  
CONSULTANT FROM MUMBAI, ON  
SATURDAY, FEBRUARY 03, 2018 AT “THE COLOSSEUM”  
AT HOTEL RENAI COCHIN**



Ms. Pushpy Muricken, Chairperson ICMAI Cochin Chapter addressing



Cross Section of the Audience



Mr. Homi P Ranina, Key note Speaker deliberating on the Union Budget



Mr. Shaji Varghese, President, Cochin Chamber of Commerce & Industry

**ANNUAL SEMINAR ON GST ORGANISED BY TALCHER ANGUL CHAPTER  
ON 11<sup>TH</sup> FEBRUARY, 2018  
AT HOTEL SURYA GUARDEN ANGUL, ODISHA  
THEME OF THE NATIONAL SEMINAR – “GST- A GROWTH OPPORTUNITY”**



CMA K C Samal, Director (Finance), NALCO Ltd. inaugurated and graced the Seminar as Chief Guest. Amongst other Guests CMA Niranjan Mishra, Council Member and Chairman, Taxation Committee, The Institute of Cost Accountants of India



Inaugural Session by CMA Niranjan Mishra Council Member and Chairman, Taxation Committee The Institute of Cost Accountants of India



Cross Section of the Audience



CMA Antaryami Acharya Chairman, Talcher Angul Chapter giving the welcome address



Shri DN Panda's address during the technical sessions



CMA B K Das DGM Finance Nalco, moderating in the inaugural session

# GST CERTIFICATE COURSE

Inaugurating on 17<sup>th</sup> February, 2018 at Bangalore, Chennai, Cochin, Hyderabad, Thiruvananthapuram, Kolkata, Delhi, Mumbai and Pune

## Course Eligibility

- **Qualified Cost & Management Accountants**
- **Other Professionals**
- **Executives from Industries**
- **GST Practitioners**

## Course Duration, Fees, Examination and other Modalities

- **Course Duration:** 12 weeks (to be conducted on Quarterly basis)
- Live classes on Saturday - 2 Hrs & Sunday - 4 Hrs
- **Assessment:** Online mode (Assessment to be conducted in the last week of the following month of every quarter)
- **Course Fee:** ₹10,000 + GST (20% Discount for CMAs) and Examination Fee ₹1000 + GST
- **Award of Certificate:** Candidates with at least 70% attendance in the classes and also passing the online examination with at least 50% Marks will be awarded a Certificate by the Institute
- Study Materials & Model Question Bank to be provided to all participants
- Experienced faculties from Industry and practice

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✓ Udaipur	✓ Vijayawada	✓ Berhampur	✓ Nagpur
✓ Noida	✓ Mysore	✓ Rourkela	✓ Nasik
✓ Chandigarh	✓ Bangalore	✓ Patna	✓ Raipur
✓ Jammu	✓ Thiruvananthapuram	✓ Ranchi	✓ Bhopal
✓ Jaipur	✓ Hyderabad	✓ Bhubaneswar	✓ Ahmedabad
✓ Lucknow	✓ Madurai	✓ Agartala	✓ Panaji
✓ Dehradun	✓ Coimbatore	✓ Guwahati	✓ Baroda
✓ Jodhpur			

## Course Contents

1. Constitutional Background of GST, Concepts of GST & Definitions in GST.
2. Taxable event, Time of Supply and Place of Supply, Composite & mixed supply, nontaxable supply, exempt supply, works contract, exempted supply.
3. Classification, HSN, SAC
4. Valuation under GST, Valuation rule
5. Input Tax Credit
6. Basic Procedures - Registration, Invoice, Bill of supply, E way Bills etc.
7. Records and Returns
8. Zero Rated Supplies , Imports and Exports
9. Payment and Refunds
10. Assessment
11. Audit
12. Demands
13. Adjudication and appeal
14. Penalties and Prosecutions
15. Advance Ruling
16. Job Work
17. Anti profiteering
18. Miscellaneous Provisions
19. Case studies on specific Chapters involving real life scenarios

**Admission link:** <https://cmaicmai.in/advsc/DelegatesApplicationForm.aspx>

# 58<sup>th</sup> NATIONAL COST CONVENTION 2018



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
Statutory Body under an Act of Parliament  
**58<sup>th</sup> NATIONAL COST CONVENTION 2018**

MARCH 16 -17, 2018 VIGYAN BHAWAN, NEW DELHI

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**Shri M Venkaiah Naidu**  
Hon'ble Vice President of India

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**Shri Suresh Prabhu**  
Hon'ble Union Minister of Commerce & Industry



**Shri Piyush Goyal**  
Hon'ble Union Minister of Railways & Coal



**Shri P. P. Chaudhary**  
Hon'ble Union Minister of State for Law & Justice and Corporate Affairs



**Shri Injeti Srinivas, IAS**  
Secretary, Ministry of Corporate Affairs  
Govt. of India

## TECHNICAL SESSIONS

- Ease of Doing Business : Contribution of CMAs
- Insolvency & Bankruptcy Code :  
CMAs Reviving Businesses
- New India 2022 : Vision of CMAs
- Indian Railways : CMAs as Game Changer
- Valuation : A New Perspective
- Challenges in Doubling Indian Farmer's Income:  
Role of CMAs
- Anti Profiteering : An Opportunity for CMAs



**CMA Sanjay Gupta**  
PRESIDENT

THE INSTITUTE OF COST  
ACCOUNTANTS OF INDIA

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## TAXATION COMMITTEE - PLAN OF ACTION

### Proposed Action Plan:

1. Train the trainers' program - capacity building of the practicing members of the Institute and others on PAN India basis to equip them on Registration, record maintenance, Filing of different returns and other matters.
2. Carry out webinars for the Capacity Building of Members of the Institute - Trainers in the locality to facilitate the traders/ registered dealers on various practical aspects.
3. Conducting Seminars in association with the Trade associations/ Traders/ Chambers of Commerce at different locations on practical issues/aspects associated with GST.
4. Conducting workshop on industry specific issues with Chambers of Commerce, CREDAI, Jewellers Association, Hotel and Restaurant Association, Bankers' Association and other agencies to resolve their issues instantly.
5. Forwarding suggestions and issues on GST to the Government after getting feedback from various stake holders.
6. Extending Certificate Course on GST for corporate and Trade Bodies.

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