Direct Tax Provisions

C K D & Co.
www.ckdca.com

Table of Contents

Sr. No.	Particulars	Page No.
1	Foreword	3
2	Rates of Income Tax	4
3	Personal Taxation	4
4	Corporate Taxation	8
5	Start-up Taxation	14
6	Non-Resident Taxation	15
7	Transfer Pricing Provisions	17
8	TDS / TCS Provisions	19
9	Return of Income	20
10	Assessments	21
11	Penalty Provisions	22
12	Income Declaration Scheme, 2016	23
13	Direct Tax Dispute Resolution Scheme	24
14	Other Amendments	25

The information contained in this synopsis is of a general nature and it is not intended to address specific facts, merits or circumstances of any entity / person. We have tried to provide accurate information in condensed form. However, no one should act upon the information presented herein, before seeking detailed professional advice & thorough examination of the specific facts while formulating business decisions. **C K D & Co.** accepts no responsibility for loss arising from any action taken or not taken by anyone using this synopsis. This synopsis is prepared exclusively for the information of the professional colleagues, friends network, clients and staff of **C K D & Co.**

Foreword

Dear Esteemed Professionals,

The end of February each year is a month where businessmen, media, professionals, economists all are in the grip of Budget Fever. This year was no exception !

This year's budget was presented amidst a slowing global economy, especially falling commodity prices and collapse of Chinese economy. However, the Hon'ble Finance Minister has tried good enough to make the proper fiscal balance and has underlined the need to continue on the path of fiscal prudence despite many adversities.

When one goes through the fine prints of the Finance Bill, 2016, it will transpire that budget is focused on the sustainable growth and stability to "Transform India". Present Govt. appears to be clear in its vision of -

- Ease of doing business
- Digital India
- Job creation and skill development
- Predictable tax system / regime
- Uniformity in taxation
- Reduced compliance burden on small tax payers
- Minimum tax litigations etc.

Numerous amendments are proposed in the Finance Bill. Some new Chapters are also proposed to be introduced in the Bill on Equalisation Levy for taxing e-commerce transactions, Direct Tax Dispute Resolution Scheme and Income Declaration Scheme for minimum litigations.

Incentivising indigenous R & D activities, incentives for start-ups and housing sector, phasing out of profit-linked, investment-linked and area-based deduction, exemption from PAN requirement in certain non-resident assesses, non-applicability of MAT on foreign companies are some of the welcome moves from the present Government.

In this issue, we have made a sincere attempt to provide an overview of Direct Tax Proposals in the Finance Bill, 2016. Our endeavour has always been to provide the synopsis of budget proposals -

- in a very simple format
- easy to understand language
- easy to refer to a particular topic, relevant for a particular person.

We sincerely hope, you will find this issue on synopsis of budget, covering direct tax proposals, very useful !

Happy reading !!!

Team C K D & Co.

2. Rates of Income Tax

Individual, HUF, AOP, BOI, Artificial juridical person

There has been no change in the basic exemption limit, tax rates and cess. However, rate of surcharge is proposed to be increased from 12% to 15% if total income exceeds Rs. 1 Cr.

Hon'ble Finance Minister maintains its stand, as was clarified in the last budget, that "rich & wealthy must pay more tax than less affluent ones"

Co-operative Societies, Firms, Local Authorities & Foreign Companies

No change in the tax rates, surcharge and cess.

Domestic Companies

Tax rate is proposed to be reduced from existing 30% to 29% (plus applicable surcharge and cess) if total turnover or gross receipts in the previous year 2014-15 does not exceed Rs. 5 Cr.

Domestic companies, incorporated on or after 1st Match 2016, engaged solely in the business of manufacture or production of any article or thing, can opt to be taxed at 25% (plus applicable surcharge and cess) subject to few conditions that they do not claim any benefit of profit-linked or investment-linked incentives, additional depreciation etc. *(New Section 115BA)*

In any other case, tax rate, surcharge and cess remains the same.

Present reduction in corporate tax rates (in few cases, as above) is in line with the Hon'ble FM's indication in last budget to reduce corporate tax rate from 30% to 25% and phasing out various profit-linked & investment-linked incentives.

3. Personal Taxation

Rebate from Income Tax [S. 87A]

Presently, resident individual, having total income upto Rs. 500,000, is allowed deduction from income tax a sum equal to Rs. 2,000 or 100% of tax, whichever is less.

To provide relief to individuals in lower slab rate, ceiling of tax rebate of Rs. 2,000 is proposed to be increased to Rs. 5,000. (Effective from A.Y. 2017-18)

Deduction in respect of rent paid [S. 80GG]

At present, resident individuals, not having house of their own and also, do not get any house rent allowance (HRA) are entitled to deduction of Rs. 2,000 per month, subject to other conditions.

This limit has now been proposed to be increased to Rs. 5,000. (Effective from A.Y. 2017-18)

Increased time period for acquisition / construction of self-occupied house property for claiming interest deduction [S. 24(b), second proviso]

One of the conditions for claiming interest deduction of Rs. 200,000, on borrowed capital, for acquisition / construction of the house property, is that acquisition or construction should be completed within 3 years from the end of the financial year in which capital was borrowed.

It is now proposed to increase the time period for acquisition / construction of house property from 3 years to 5 years. (Effective from A.Y. 2017-18)

Deduction of additional interest for first-home buyers [S. 80EE]

It is proposed to provide additional deduction of Rs. 50,000 to individuals, in respect of interest on loan taken, from any financial institution, for acquisition of residential house

property subject to fulfilment of following conditions.

- loan has been sanctioned during the FY 2016-2017
- amount of loan sanctioned does not exceed Rs. 35 lacs
- value of house property does not exceed Rs. 50 lacs
- individual does not own any other residential house property at the time of sanctioning of loan.

Above deduction is over and above the limit of Rs. 200,000 provided u/s 24 of the ITA, 1961. (Effective from A.Y. 2017-18)

Though it may appear to be a welcome move from the Govt. as a part of its objective of "Housing for all", there is nothing new in the section. In fact, the same section is re-introduced with few modifications.

Uniformity in taxation of unrealised rent and arrears of rent [S. 25A]

At present, unrealised rent [S. 25AA] or arrears of rent [S. 25B], realised or received subsequently is deemed to be income from house property in the year of receipt, whether or not assessee is owner of the house property in the year of receipt.

Further, 30% deduction is available only in respect of arrears of rent. However, no such deduction was available for unrealised rent.

To simplify the provisions and to bring uniformity in tax treatment, it is now proposed to merge above referred section into one single section and provide 30% deduction when unrealised rent or arrears of rent received subsequently. (Effective from A.Y. 2017-18)

Employer's contribution to approved superannuation fund [S. 17(2)(vii)]

Currently, employer's contribution to approved SA fund, in excess of Rs. 100,000 is treated as perquisite in the hands of employee.

It is now proposed to raise the limit of employer's contribution from Rs. 100,000 to Rs. 150,000. (Effective from A.Y. 2017-18)

Employer's contribution to recognised provident fund [Part A, Fourth Schedule to ITA]

Currently, employer's contribution to RPF in excess of 12% of employee's salary, is liable to be taxed in the hands of employee.

It is now proposed to provide upper ceiling of Rs. 150,000 to employer's contribution to RPF. As such, employer's contribution to RPF, upto Rs. 150,000 is exempt in the hands of employee. (Effective from A.Y. 2017-18)

Tax treatment of National Pension System (NPS) at the time of withdrawal [S. 80CCD read with newly inserted section 10(12A)]

Under the existing provisions, tax treatment for NPS is Exempt-Exempt-Tax (EET).

Contribution and accumulation (i.e. returns generated on the contributions made) are exempt from tax in the form of deduction or exemption. However, withdrawals - either lump sum or in part - are taxable in the hands of assessee or his nominee, in the year of receipt.

It is now proposed to exempt withdrawals from NPS upto 40% of accumulated balance at the time of closure or assessee opting out of the scheme. It is further proposed that nothing would be taxable if amount is received by the nominee due to death of the assessee. (Effective from A.Y. 2017-18)

Tax treatment of withdrawals from Recognised Provident Fund and Superannuation Fund [S. 10(12) & 10(13)]

Currently, these savings schemes are tax exempt at three stages viz. contribution,

accumulation and withdrawal subject to few conditions.

In place of this Exempt-Exempt-Exempt (EEE) method of tax treatment, in order to bring parity with tax treatment of NPS, it is proposed to introduce EET system for RPF/EPF and SA also. Accordingly, withdrawals upto 40% of contributions accumulated on or after 1st April 2016, will be tax exempt.

Portability from Recognised Provident Fund and Approved Superannuation Fund to NPS [S. 10(13)]

It is proposed to exempt from tax transfer of funds from an approved SA fund or one-time portability of entire accumulated balance from RPF to NPS. (Effective from A.Y. 2017-18)

There was a huge protest from salaried tax payers over budget proposal to tax withdrawal from RPF/EPF.

In fact, there was double taxation issue involved in taxing withdrawals from EPF/RPF.

Finally, on 08/03/16, Hon'ble FM rolled back its proposal to tax withdrawal from EPF/RPF

In our opinion, considering low-tax exempt savings allowed, contribution to NPS is effectively out of tax paid income only. As such, Govt. should make NPS also tax free and should not discriminate with other saving schemes

Additional tax on dividend [S. 10(34) read with newly inserted section 115BBDA]

Presently, as per S. 115-O, domestic companies are subject to Dividend Distribution Tax (DDT) @15% (plus surcharge & cess) on any amount declared, distributed or paid by way of dividend. The said dividend is exempt in the hands of shareholders vide S. 10(34).

In order to address inequity amongst tax payers, it is now proposed to tax dividend in excess of Rs. 10 lacs in the hands of resident individuals, HUF's and firms @10% (plus applicable surcharge and cess), on gross basis. (Effective from A.Y. 2017-18)

In our opinion, dividend in excess of Rs. 10 lacs is qua assessee and not qua company. That is to say, if an assessee receives dividend of Rs. 1 lac each from 12 companies in a year, the same will be taxable on full amount i.e. 10% of Rs. 1,200,000

Filing of Form 15G/15H for rental payments [S. 197A]

Existing provisions of S. 197A provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible, furnishes to the payer, a self-declaration in form 15G/15H, declaring that tax on his estimated total income of the relevant previous year would be nil.

It is proposed to amend S. 197A so as to include S. 194-I which inter-alia provides for TDS on payments in the nature of rent beyond a threshold limit (which is Rs. 180,000). This provision apply to all assesses other than company or firm (Effective from 1st June 2016)

Income from other sources - applicability of S. 56(2)(vii)

Currently, any money, immovable or movable property including shares of a company, received by an individual or HUF without any consideration or for inadequate consideration in excess of Rs. 50,000 shall be taxable in the hands of such individual or HUF under the head income from other sources.

When shares of a company are received by a firm or a company without consideration or for inadequate consideration, as a consequence of demerger or amalgamation of a company, the said transaction is not regarded as transfer.

Accordingly, in order to bring uniformity in tax treatment, it is now proposed to provide that any shares received by individual or HUF, as a consequence of demerger or amalgamation of company, provisions of S. 56(2)(vii) would not apply. (Effective from A.Y. 2017-18)

Presumptive taxation for persons having income from business [S. 44AD]

As per existing provisions of S. 44AD, eligible assessee (resident individual, HUF or partnership firm) engaged in eligible business, having total turnover or gross receipts upto Rs. 1 Cr, a sum equal to 8% of such total turnover or gross receipts or a higher sum as the case may be shall be deemed to be profits and gains of such business.

No further deduction on account of expenses is allowed from such deemed profit of 8% except partner's remuneration as per S. 40(b), in the case of partnership firm.

Moreover, if an eligible assessee reports profits less than deemed profit of 8%, he has to maintain books of account as per S. 44AA and get them audited as per S. 44AB.

It is now proposed to increase the threshold limit of Rs. 1 Cr to Rs. 2 Cr.

It is also proposed that no deduction of partner's remuneration as per S. 40(b) will be allowed from deemed profit of 8% to assesses being partnership firm.

It is further proposed that where an eligible assessee declares profits as per S. 44AD in any previous year, he is required to continue to declare profits as per S. 44AD for 5 consecutive years. If he fails to do so, he shall not be allowed to claim the benefits of S. 44AD for next 5 consecutive years from the year in which he fails to satisfy the conditions laid down u/s 44AD. (Effective from A.Y. 2017-18)

This is a good step taken by the Govt. in facilitating "ease of doing business" and in reducing compliance burden of small businesses.

Introduction of presumptive taxation for professionals [New S. 44ADA]

This new section is on same line with existing S. 44AD.

As per the newly proposed S. 44ADA, where an assessee is engaged in any profession referred to in S. 44AA(1) (such as legal, medical, architectural, accountancy etc.) and whose total gross receipts does not exceed Rs. 50 lacs, a sum equal to 50% of such total gross receipts or a higher sum as the case may be shall be deemed to be the profits and gains from such profession chargeable under the head "profits and gains of business or profession"

No any deduction on account of expenses or partner's remuneration is allowable from such deemed profit of 50% of total gross receipts.

If assessee declares lesser profit than deemed profit of 50% of total gross receipts, then he will have to maintain books of account as per S. 44AA and get them audited u/s 44AB. (Effective from A.Y. 2017-18)

In our humble opinion, declaring 50% of total gross receipts as deemed profit is really on a higher side, especially in the case of audit or architectural firms where requirement of staff or supervisor is relatively more and office space requirement is also comparatively big.

Further, provisions are not helpful for partnership firms as deduction of partner's remuneration is not allowed.

Audit limit increased for professionals [S. 44AB]

Presently, every person carrying on profession has to get his accounts audited u/s 44AB if total gross receipts in previous year exceeds Rs. 25 lacs.

It is proposed to increase the threshold limit for audit from Rs. 25 lacs to Rs. 50 lacs. (Effective from A.Y. 2017-18)

Change in payment of advance tax schedule [S. 211]

Currently, due date for payment of advance tax in case of all the assesses, other than company, is as follows -

Date of instalment	Amount of tax payable on current income
Upto 15th September	30%
Upto 15th December	60%
Upto 15th March	100%

With effect from 1st June 2016, advance tax instalments in respect of all the assesses, other than company, who are liable to pay tax has been increased from 3 to 4. The same is in line with advance tax payment schedule for companies.

Thus, henceforth, all the assesses, including company, will have same schedule for payment of advance tax which is as follows.

Date of instalment	Amount of tax payable on current income
Upto 15th June	15%
Upto 15th September	45%
Upto 15th December	75%
Upto 15th March	100%

There is one exception to the above. Eligible assesses opting for presumptive taxation scheme as per S. 44AD are required to pay advance tax of the whole amount in one instalment only, on or before 15th of March. (Effective from 1st June 2016)

4. Corporate Taxation

Tax on buy-back of shares by the company [S. 115Q]

As per the existing provisions of S. 115QA, any income distributed by the company, on buy-back of its own shares (unlisted) from the shareholders, attracts additional income tax @20% on such distributed income i.e. consideration paid by the company on buy-back of share as reduced by the amount received for issue of such shares

S. 115QA covers buy-back of shares by the company in accordance with the provisions of S. 77A of the Companies Act, 1956 *only* (now, S. 68 of the Companies Act, 2013).

It is now proposed that provisions of S. 115QA shall apply to any buy-back of unlisted shares undertaken by the company as per the provisions of the company law *and not necessarily restricted to S. 77A of the Companies Act, 1956.*

Besides above, due to lack of clarity as to computation of distributable income in respect of buy-back of shares by the

company pursuant to amalgamation, merger or demerger etc. it is proposed to frame appropriate rules so as to provide the manner of determination of distributable income in various circumstances. (Effective from 1st June 2016)

Phasing out of deductions and exemptions

The Hon'ble Finance Minister in his Budget Speech, 2015 had indicated that corporate tax rate will be reduced from 30% to 25% over the next 4 years along with corresponding phasing out of exemptions and deductions.

Broad guiding principles in this regard are as follows -

- Phasing out of profit-linked, investment-linked and area based deductions for corporate as well as non-corporate assesses
- Sunset dates in the existing provisions will not be modified or extended further
- Existing provisions where there is no terminal date, a sunset date of 31-03-2017 will be provided either for commencement of activity or for claim of benefit
- No weighted deductions w.e.f. 01-04-2017

In pursuance thereof, it is proposed to provide that **no *weighted* or *profit-linked deductions*** will be available, in respect of following sections, **after a particular date (sunset date)-** (Effective from A.Y. 2017-18)

Weighted deduction

Section	Sunset date for claiming deduction
35AC - Expenditure on eligible project	31-03-2017

Profit-linked deduction

Section	Sunset date for commencing mfr / production / providing service or start of operations
10AA *	31-03-2020
80-IA ^	31-03-2017
80-IAB #	31-03-2017
80-IB(9) @	31-03-2017

* Special provision for newly established unit in SEZ
^ Profit derived from development, operation & maintenance of infrastructure facility
# Profit derived from development of SEZ
@ Profit derived from production of mineral oil & natural gas

It is also proposed to ***phase out various weighted deductions of certain expenditures*** available under the existing provisions of the Act, in respect of -

- expenditure incurred on approved scientific research association [S. 35(1)(ii)],
- contribution to approved scientific research company [S. 35(1)(iia)]
- contribution to approved research association or university or college etc. [S. 35(1)(iii)]
- any sum paid to National Laboratory or university or IIT etc. [S. 35(2AA)]
- expenditure incurred by a company engaged in in-house R & D - bio-technology etc. [S. 35(2AB)]
- capex in case of cold chain facility, warehousing facility for storage of agricultural produce etc. [S. 35AD]
- expenditure incurred on notified agricultural extension project [S. 35CCC]
- expenditure on skill development project [S. 35CCD]

Kindly refer to following table for deductions available at present and proposed phasing out plan. (Effective from A.Y. 2018-19)

Sec.	Deduction upto 31-03-17	Deduction from 01-04-17 To 31-03-20	Deduction from 01-04-20 onwards
35(1)(ii)	175%	150%	100%
35(1)(iia)	125%	100%	100%
35(1)(iii)	125%	100%	100%
35(2AA)	200%	150%	100%
35(2AB)	200%	150%	100%
35AD	150%	100%	100%
35CCC	150%	100%	100%
35CCD	150%	150%	100%

Phasing out of accelerated depreciation [S. 32 r.w.r. 5]

Presently, accelerated depreciation @100% is provided to certain industrial sectors.

In line with the phasing out of weighted deduction of certain expenditure, it is proposed to restrict the rate of depreciation to 40% on all assets, whether new or old, w.e.f. F.Y. 2017-18. (Effective from A.Y. 2018-19)

Benefit of initial additional depreciation extended to assessee in the business of transmission of power [S. 32(1)(iia)]

Till now, benefit of initial additional depreciation of 20% of actual cost of new machinery or plant, acquired & installed in the previous year, was available to certain assesses engaged in the business of generation and distribution of power.

It is now proposed to extend the above benefit to assesses engaged in the business of transmission of power. (Effective from A.Y. 201-18)

Taxation of income from Patent [Newly inserted S. 115BBF]

It is proposed to provide that royalty income earned by an eligible assessee, in respect of patent developed & registered in India, shall be taxable @10% (plus applicable surcharge & cess) on the gross amount of royalty.

It is also proposed that no expenditure or allowance in respect of such royalty shall be allowed under the ITA, 1961.

Eligible assessee is a person resident in India, being the true and first inventor of the invention, whose name is entered on the patent register as patentee as per Patent Act.

MAT is not applicable in respect of above. (Effective from A.Y. 2017-18)

It transpires that as a part of "Make in India" activity, present Govt. is keen to encourage indigenous R & D and make India a global R & D hub.

The aim of the Govt. is to incentivize companies so as to retain & commercialize existing patents, develop new patents, locate high value jobs associated with it, in India

OECD has recommended that income arising from exploitation of intellectual property should be attributed and taxed in the jurisdiction where substantial R & D activities are undertaken.

Investment allowance [S. 32AC]

Currently, a company engaged in manufacture or production, acquires and installs new plant & machinery ("new asset") during the previous year itself, value of which exceeds Rs. 25 Cr, an investment allowance @15% of actual cost of such new asset is allowed.

It is proposed to relax dual condition of acquisition & installation of new asset in the same previous year. It is now provided that to claim the benefit of 15% investment allowance, installation of new asset may be made on or before 31-03-2017, even though the same is acquired in earlier year. However, 15% allowance will be available only in the year of installation. (Retrospective effect from 1st April 2016)

Deduction in respect of profits & gains from Housing Projects [New S. 80-IBA]

It is proposed to allow 100% deduction of profits derived by an assessee from the business of developing & building housing projects, subject to fulfilment of following conditions. (Effective from A.Y. 2017-18)

- housing project is approved by the competent authority after 01-06-2016 but on or before 31-03-2019
- it is completed within 3 years from approval
- it satisfies min. project area & min. size of residential unit as below

Project Area	Min. Size of Project Land	Min. Size of Residential Unit
4 metro cities	1000 sq mtr	30 sq mtr
Within 25 kms of municipal limits of 4 metro cities	1000 sq mtr	30 sq mtr
Any other area / city	2000 sq mtr	60 sq mtr

- where a residential unit is allotted to an individual, no other unit shall be allotted to him or his spouse or his minor children, in the same project
- built-up area of shops / commercial establishment in the said housing project not to exceed 3% of total built up area

Introduction of deduction on affordable housing projects clearly shows that Govt. is keen in pursuing its vision of "Housing for all" a reality.

However, at one hand, Govt. is phasing out "profit-linked", "investment-linked" & "area-based" deductions and at another hand, re-introducing the "profit-linked" deduction to housing projects, though available only upto 31-03-2019 which is in line with other sections for e.g. 10AA.

Reason clearly appears be to boost up temporary recession in housing development sector and to provide "Housing for All" to be specific

Employment generation incentive [S. 80JJAA]

Presently, 30% deduction of additional wages paid to new regular workers, in a factory for 3 years, is allowed provided workers are employed for minimum 300 days in a year & there is increase of min 10% in total no. of workers employed. Further, present provision was applicable to manufacturing sector only.

It is now proposed as follows (Effective from A.Y. 2017-18) -

- additional deduction for new employment is extended to all assesses subject to tax audit (not only manufacturing sector !)
- deduction available for cost incurred on any employee whose total emoluments are upto Rs. 25,000 p.m.

- requirement of minimum number of days of employment reduced from 300 to 240 days
- requirement of minimum number of employees is no more
- in the 1st year of a new business, 30% of all emoluments paid / payable to all employees employed during the that year is allowed as deduction

Conversion of company into Limited Liability Partnership (LLP) [S. 47(xiiib)]

S. 47(xiiib) provides that conversion of a private limited company or unlisted public company into LLP shall not be regarded as transfer (and thus, not liable for capital gain tax) subject to fulfilment of few conditions which are cumulative in nature.

It is now proposed to add one more condition that value of total assets in the books of company in any of the 3 years, preceding the year in which conversion takes place, should not exceed Rs. 5 Cr. (Effective from A.Y. 2017-18)

Deemed consideration in respect of transfer of immovable property [S. 50C]

In the case of transfer of immovable property, it is proposed that stamp duty value on the date of agreement may be considered as full value of consideration where date of agreement & date of registration are different.

Above provision will apply to only those cases where amount of consideration or part thereof is paid by account payee cheque or account payee bank draft or through online banking, on or before the date of agreement. (Effective from A.Y. 2017-18)

This amendment will be helpful in cases where value of stamp duty has increased in between period of agreement to sale and date of registration of transfer.

Scope of S. 43B extended - some deductions allowed only on actual payment

It is proposed to include any sum payable to Indian Railways for use of railway assets within the ambit of S. 43B. (Effective from A.Y. 2017-18)

Taxation of non-compete fee [S. 28(va) & S. 55]

Till now, non-compete fee received / receivable for not carrying out activity in relation to any business was taxable as business income, chargeable under the head "profits & gains from business or profession".

It is now proposed to further extend the scope of this section to activity in relation to profession also.

It is further proposed that receipts for transfer of any rights to carry on any profession, which are chargeable to tax under the head "Capital Gain", would not be taxable as profit & gains of business or profession. Also, cost of acquisition and cost of improvement shall be considered as nil. (Effective from A.Y. 2017-18)

Deduction of provision for bad & doubtful debts in respect of NBFC [S. 36(1)(viia)(c)]

Presently, deduction upto 5% of gross total income is available in respect of any provision for bad and doubtful debts to certain eligible financial institutions / corporations.

It is now proposed to allow above referred deduction to Non Banking Financial Companies (NBFC) also. (Effective from A.Y. 2017-18)

Carry forward & set off of loss in respect of specified business [S. 73A r.w.s. 80]

As per S. 73A, loss computed in respect of any specified business as per S. 35AD can be set off only against profits & gains of any other specified business.

Specified business includes operating cold chain facility, warehousing facility for agricultural produce, fertilizer production, building & operating 2 star hotel and above, building & operating hospitals with min 100 beds for patients etc.

As per S. 80, for carry forward & set off of losses (as computed under S. 72,73,74 or S. 74A), return of income needs to be filed within the specified time limit as per S. 139(3) i.e. by the due date of filing of return of income.

It is now proposed to amend S. 80 so as to provide that loss determined u/s 73A shall also not be allowed to be carry forward and set off, unless the return of income is filed within the specified time limit as per S. 139(3). (Retrospective effect from A.Y. 2016-17)

Set off of losses against deemed undisclosed income [S. 115BBE]

Till now, there has been controversy as to whether set off of losses against income referred to in following sections is allowed or not.

- S. 68 (cash credits),
- S. 69 (unexplained investments)
- S. 69A (unexplained money)
- S. 69B (amount of investments etc., not fully disclosed)
- S. 69C (unexplained expenditure)
- S. 69D (amount borrowed & repaid on hundi)

It is proposed to amend S. 115BBE, which pertains to tax on income in respect of above referred sections, so as to provide that no set off of any loss shall be allowed against income under above referred sections. (Effective from A.Y. 2017-18)

DDT exemption to SPV's on distribution made by SPV to Business Trust [S. 10(23FC) & (23FD)]

On 26th September 2014, SEBI notified regulations for the Real Estate Investment Trust (REIT's) and Infrastructure Investment Trust (InvIt's), commonly known as business trust, paving the way for introduction of internationally acclaimed investment structure in India. Necessary amendments to taxation regime were also made so as to provide the "*tax pass through*" status, which is one of the key requirements for feasibility of REIT's.

REIT regime is aimed at providing organized market for retail investors to invest and be part of the Indian real estate growth story.

Business Trusts can hold the income generating assets either directly or through Special Purpose Vehicle (SPV), who can be company or LLP. SPV has to hold minimum 80% of assets in the properties and not to invest in other SPV's. As per the SEBI rules, both SPV as well as REIT has to distribute 90% of their operating income to the investors.

Presently, income distributed by SPV, being a company, to the REIT, being shareholder holding controlling interest, suffers Dividend Distribution Tax (DDT) in the hands of SPV. Thereafter, income is exempted, both in the hands of REIT as well as ultimate investor.

It is now proposed to provide for "tax pass through" status in respect of income distributed by SPV to REIT. As such, SPV will not be subjected to DDT while distributing its income to REIT. (Retrospective effect from 1st June 2016)

<< This space is intentionally left blank >>

5. Start-up Taxation

Basic Taxation [New S. 80-IAC]

It is proposed to introduce new S. 80-IAC so as to provide 100% deduction to an "eligible start-up", in respect of profits and gains derived from an "eligible business", for 3 consecutive assessment years out of 5 years beginning from the year in which eligible start-up is incorporated.

"Eligible business" means a business which involves innovation, development, deployment, or commercialization of new products, processes or services driven by technology or intellectual property.

"Eligible start-up" means a company engaged in eligible business & fulfils following conditions.

- it is incorporated on or after 01-04-16 but before 01-04-19
- total turnover of eligible business does not exceed Rs. 25 Cr in any of the previous years beginning from 01-04-16 till 31-03-21
- it holds certificate of eligible business from Inter-Ministerial Board of Certification

(Effective from A.Y. 2017-18)

Proposed provision provides impetus for entrepreneurship, SME's. However, by putting few restrictions such as turnover criteria, definition of eligible business, applicablity to only new-start-ups etc. impetus of growth has, in one sence, narrowed down.

Capital gain tax exemption by way of investment in units of specified funds [New S. 54EE]

It is proposed to provide that where proceeds of capital gain, arising from transfer of a long term capital asset, are invested within 6 months from the date of such transfer, in the units of specified funds (as may be notified) & where the value of investment does not exceed Rs. 50 lacs, capital gain will be exempt from tax. (Effective from A.Y. 2017-18)

In order to promote the start-up ecosystem in the country, it is envisaged in 'start-up India Action Plan' to establish a Fund of Funds which intends to raise Rs 2500 crores annually for four years to finance the start-ups. Keeping this objective in view, it is proposed to insert a new Section 54EE to provide exemption from capital gains tax.

Capital gain tax exemption by way of investment in subscription of shares of start-up companies [S. 54GB]

It is proposed to amend S. 54GB so as to provide that LTCG arising to individual / HUF from transfer of a residential house property shall not be chargeable to capital gain tax if such gains are invested in subscription of shares of an eligible start-up company subject to satisfaction of following conditions -

- such individual / HUF holds >50% shares of such start-up company and
- such start-up company utilizes the amount invested in shares to purchase new asset before due date of filing of RoI by the investor.

(Effective from A.Y. 2017-18)

6. Non-Resident Taxation

Capital gain on transfer of unlisted securities by non-resident [S. 112(1)(c)]

Currently, long term capital gain (LTCG) arising from transfer of unlisted securities (as defined under Securities Contract Act) is taxed at concessional rate of 10% in the case of non-resident assessee.

However, there has been confusion as to whether sale of shares of private companies, by the non-resident, are also subject to concessional tax rate of 10%.

To remove this anomaly, it is now proposed that LTCG arising from transfer of shares of a company, in which public are not substantially interested (e.g. private company), shall also be chargeable to tax at 10%. (Effective from A.Y. 2017-18)

Exemption from requirement of furnishing PAN to certain non-resident [S. 206AA]

S. 206AA deals with requirement of furnishing PAN by any person, entitled to receive any sum or income on which tax is deductible under Chapter XVII-B, to the person responsible for deducting such tax.

Where PAN is not furnished to the person responsible for deducting tax at source then tax deductor would be required to deduct tax at higher of the following rates -

- rates specified in relevant provisions of ITA
- rate(s) in force or
- @20%

It is now proposed to provide that above provision shall not apply to a non-resident, subject to such conditions as may be prescribed. (Effective from 1st June 2016)

MAT on foreign companies [S. 115JB]

With retrospective effect from 01-04-2001, it is proposed that provisions of Minimum Alternate Tax u/s. 115JB shall not apply to foreign company (F-Co), if such F-Co is a resident of a country -

- with which India has DTAA and such F-Co does not have PE in India or
- with which India does not have DTAA and such F-Co is not required to seek registration under any law relating to companies.

(Retrospective effect from A.Y. 2001-02)

Place of Effective Management (POEM) based residence rule [S. 6(3), New S. 115JH & New Chapter XII-BC]

Scenario - prior to Finance Act, 2015

A company was said to be resident in India if it was an Indian company (Ind-Co) or during that year, the control & management of its affairs was situated *wholly* in India.

Scenario - post Finance Act, 2015

As a measure to deal with certain shell companies outside India but being controlled & managed from India, Finance Act, 2015 amended the test of residence for F-Co., so as to provide that a company would be resident in India in any previous year, if it is an Ind-Co or if its POEM is in India at any time in that year.

Proposal in Finance Bill, 2016 (Effective from 1st April 2017)

- Now, considering some procedural hurdles in implementation of POEM based residence rule, it is proposed to defer the applicability of POEM based residence rule by 1 year.
- where F-Co becomes resident of India in any previous year, for the first time, due to its POEM being in India, a transition mechanism is proposed whereby Central Govt. is empowered to notify necessary provisions for exception, modification & adaption in

the existing ITA, 1961 for computation of income, treatment of unabsorbed depreciation, set off & carry forward of losses, collection & recovery of taxes etc.

- if F-Co is treated as resident in India during assessment proceedings, then aforesaid transition provisions shall apply to all subsequent years till the date of completion of the assessment.

Equalisation levy in e-commerce taxation [New Chapter VIII, S. 10(50)]

Background

Digital / e-commerce business fundamentally challenges physical presence based PE rule.

Typical tax issues relating e-commerce are the difficulties in -

- characterising the nature of payment
- establishing the link between a taxable transaction, activity and a taxing jurisdiction,
- locating the transaction, activity and identifying the tax payer for income tax purposes.

OECD Recommendation

Considering the challenges of new digital economy, OECD has recommended, in BEPS project under Action Plan 1, to impose withholding tax on certain payments for digital goods or services, provided by foreign e-commerce provider or imposition of equalisation levy on consideration for certain digital transactions, received by non-resident from a resident or from a non-resident having PE in other contracting state.

Proposal in Finance Bill, 2016 - Charge of Levy

In line with the OECD recommendation, it is proposed to insert a new Chapter called "Equalisation Levy" in the Finance Bill, 2016 so as to provide an equalisation levy of 6% of the amount of consideration, for any "specified services", received or receivable by a non-resident from -

- an Indian resident person, carrying on business or profession or
- a non-resident having PE in India

("Specified Service" means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and such other services as may be notified by the Central Govt.)

Exemption from Equalisation Levy

- non-resident has PE in India and "specified services" provided by such non-resident are effectively connected to such PE in India
- aggregate amount of consideration for "specified services" received or receivable by non-resident does not exceed Rs. 1 lac during the previous year.

Exemption from S. 10 of ITA, 1961 - Income not included in total income

It is proposed to provide exemption u/s 10 of the ITA, 1961 for any income arising from "specified services" on which equalisation levy is chargeable.

Collection & Recovery of Equalisation Levy

Remitter i.e. Indian resident, carrying business or profession or non-resident having PE in

India, is required to deduct / withhold the levy while making remittance to non-resident in respect of "specified services".

The levy so deducted / withheld shall be deposited by 7th day of the month subsequent to the month in which levy is deducted / withheld.

Furnishing of statement

Every assessee, after the end of each financial year, shall furnish the statement to the AO within prescribed time and manner, in respect of all specified services availed during such financial year.

Interest on delayed payment of Equalisation Levy

Simple interest @1% of such levy for every month or part of a month by which crediting of such tax or any part thereof is delayed.

Penalty

Particulars	Penalty
Failure to deduct levy (either whole or part)	Equal to Equalisation Levy
Failure to deposit levy (after deducting levy)	Rs. 1,000 / day till default continues

Business disallowance [S. 40(ib)]

It is proposed to insert new clause (ib) to S. 40 of the ITA, 1961 so as to provide that expenses incurred by the assessee towards "specified services", chargeable under Chapter VIII, shall not be allowed as deduction in case of failure of the assessee to deduct and deposit the equalisation levy in the treasury of Central Govt.

Applicability of Equalisation Levy

The said chapter shall come into force from such date as may be notified by the Central Govt.

7. Transfer Pricing Provisions

Country-By-Country Reporting Requirement [S. 92D, S. 271AA, New S. 271GB & 286]

Background

Organisation for Economic Co-operation and Development ("OECD") report, through Base Erosion and Profit Shifting ("BEPS") action plan, provides for revised standards for transfer pricing ("T-P") documentation and a template for country-by-country ("CbC") reporting of income, earnings, taxes paid and economic activity.

India has been one of the active members of BEPS initiative and part of international consensus.

In keeping with India's commitment to implement the BEPS action points, CbC reporting is proposed to be implemented for multinational enterprise ("MNE").

Applicability

- CbC reporting provisions shall be applicable from 1st April 2017.
- It shall apply to an International Group only if total consolidated group revenue for the accounting year exceeds the amount, as may be prescribed.

The current international consensus for CbC reporting is for a threshold of € 750 million equivalent in local currency. This threshold in Indian currency equals to Rs. 5,395 Cr approx.

Reporting Requirement

i. It is recommended by BEPS to adopt standardise approach for T-P documentation. It mandated a 3 tier structure which consists of -

- Master file to contain standardise information relevant for all MNE group members

- Local file with special reference to material transactions of local taxpayer and
- CbC report containing information w.r.t. global allocation of MNE's income, taxes paid and some indicators of location of economic activity within the group.

ii. CbC report requires MNE to report their total employment, capital, accumulated earnings and tangible assets in each tax jurisdiction.

iii. CbC report has to be submitted by the foreign parent company or foreign designated entity of the international group to the prescribed authority in its country of residence.

iv. In the case of Indian parent company of the international group or an Indian designated entity (also known as alternate reporting entity) of the foreign parent company, CbC report is required to be furnished to the prescribed authority on or before the due date of furnishing of RoI.

v. Indian entity having foreign parent company shall only required to provide details of country of residence of the parent in the prescribed manner, to the prescribed authority, on or before the prescribed date.

vi. If there are more than one entities of the same group in India, then the group can nominate the entity that shall furnish the report on behalf of the group.

Time limit for submitting information as called for by the prescribed authority

Prescribed authority may call for such documents and information from the reporting entity, for verifying accuracy of the report.

The information called for by the prescribed authority needs to be submitted by the reporting entity within 30 days time which can be extended by the prescribed authority for max, of 30 days.

Penalty Provisions

Stringent penalty provisions are proposed for non-compliance w.r.t. CbC reporting.

A) Penalty for non-furnishing of CbC Report

Sr. No.	Default Period	Penalty
1	Upto 1 month	Rs. 5,000 / day
2	Beyond 1 month	Rs. 15,000 / day^
3	Continuing default*	Rs. 50,000 / day#

^ for period exceeding one month
* beyond service of penalty order
# from the date of service of penalty order

B) Penalty for non-submission of information, when called for by the prescribed authority

Sr. No.	Default Period	Penalty
1	Before penalty order^	Rs. 5,000 / day
2	After penalty order*	Rs. 50,000 / day

^ for period during which default continues
* if default continues beyond service of penalty order

C) Penalty for furnishing inaccurate information

Sr. No.	Particulars	Penalty
1	Awareness of inaccuracy at the time of furnishing report	Rs. 500,000
2	Inaccuracy discovered post furnishing of report	
3	Furnishing inaccurate information in response to notice	

Power of Assessing Officer ("AO") to challenge directions of Dispute Resolution Panel ("DRP") [S. 253(2A) & (3A)]

In line with the decision of the Govt. to minimize litigation, it is proposed to take away the right of the AO in respect of filing of appeal before the Income Tax Appellate Tribunal ("ITAT") against the directions of the DRP (Effective from 1st June 2016)

Extended time limit for completion of T-P assessment, in certain cases [S. 92CA(3A)]

Presently, Transfer Pricing Officer ("TPO") has to pass T-P order 60 days before the date on which limitation for making regular assessment expires.

In the following circumstances, time available to TPO for completion of T-P assessment is less than 60 days.

- where assessment proceedings are stayed by the court or
- where reference for exchange of information has been made by the competent authority.

It is therefore proposed to allow TPO minimum 60 days for passing T-P order after excluding time taken for above two cases. (Effective from 1st June 2016)

Time limit for completion of T-P assessment [New S. 153(4) r.w.s. 92CA(1)]

Currently, where reference is made by the AO to TPO, time limit for completion of assessment is 3 years from the end of the assessment year.

It is proposed to revise the above time limit for completion of assessment, where reference is made to TPO, from 3 years to 33 months. (Effective from 1st June 2016)

8. TDS / TCS Provisions

Revised threshold limits or changes in rate for deduction of tax at source are as follows

Sec.	Head	Existing threshold limit or rate of TDS	Proposed threshold limit or rate of TDS
192A	Payment of accumulate balances due to employee	Rs. 30,000	Rs. 50,000
194BB	Winning from Horse Race	Rs. 5,000	Rs. 10,000
194C	Payment to Contractors*	Rs. 75,000	Rs.100,000
194D	Insurance commission	Rs. 20,000 10%	Rs. 15,000 5%
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payment in respect of NSS deposits	20%	10%
194G	Commission on sale of lottery tickets	Rs. 1,000 10%	Rs. 15,000 5%
194H	Commission or brokerage	Rs. 5,000 10%	Rs. 15,000 5%
194LA	Compensation on acquisition of immovable property	Rs. 200,000	Rs. 250,000

* aggregate annual limit

(Effective from 1st June 2016)

Amendment in TCS provision [S. 206C]

It is proposed that seller shall collect tax @ 1% from the purchaser on sale of -

- motor vehicle, value > Rs. 10 lacs
- cash sale of goods (other than bullion & jewellery)
- provision of any service > Rs. 2 lacs

(Effective from 1st June 2016)

9. Return of Income ("RoI")

Filing of RoI [S. 139(1), sixth proviso]

It is proposed that every individual / HUF / APO / BOI / artificial juridical person, whose income, without giving effect to exemption u/s 10(38), exceeds maximum amount not chargeable to tax shall also be liable to file RoI for the previous year, within due date. (Effective from A.Y. 2017-18)

Time limit reduced to file Belated Return [S. 139(4)]

Existing time limit for filing belated return is one year from the end of the relevant assessment year.

Now, belated return should be furnished before the end of the relevant assessment year. *Time limit has been reduced.* (Effective from A.Y. 2017-18)

Option to Revise Belated Return [S. 139(5)]

Now, belated return of income can also be revised and it should be revised at any time before the expiry of one year from the end of the relevant assessment year or before completion of the assessment, whichever is earlier. (Effective from A.Y. 2017-18)

Return not to be considered Defective for non-payment of SA tax [S. 139(9)]

It is now proposed to amend the existing provisions so as to provide that return should not be treated as defective merely because self assessment tax and interest payable as per S. 140A has not been paid within the time limits. (Effective from A.Y. 2017-18)

Processing of Return - Mandatory [S. 143(1D)]

It is proposed to provide that before making any assessment u/s 143(3), a return shall be processed u/s 143(1) of the ITA, 1961. (Effective from A.Y. 2017-18)

Scope of Adjustments while Processing of Return u/s 143(1)

Currently, return filed is to be processed and total income / loss is to be computed after making following adjustments on account of-

- arithmetical error in the return or
- incorrect claim, apparent from information in the return

It is now proposed to expand the above scope so as to further include following adjustments on account of -

- disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond time limit specified u/s 139(1)
- disallowance of expenditure indicated in auditor's report, but not considered in return while computing total income
- disallowance of deductions, claimed u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if the return is furnished beyond time limit specified u/s 139(1)
- addition of income appearing in Form 26AS / Form 16 / Form 16A but not included while computing total income in the return.

It is further proposed that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments, either in writing or in electronic mode.

It is also provided that response received from the assessee shall be considered before making any such adjustments. In case, where no response is received within 30 days of the issue of such intimation, such adjustments shall be made. (Effective from A.Y. 2017-18)

These proposals are measures to rationalize, streamline and promote the culture of compliance procedures.

10. Assessments

Revised time limits for assessments, reassessments and recomputation [substitution of new S. 153 replacing old S. 153]

Particulars	Existing time limit	Proposed time limit
Assessment / Best Judgement Assessment	2 years*	21 months*
Reassessment	1 year**	9 months**
Fresh Assessment***	1 year^	9 months^
Giving effect to an order@	Not specified	3 months#
Giving effect to an order$❶	Not specified	12 months#

* from the end of the relevant assessment year

** from the end of the F.Y. in which notice u/s 148 was served

*** fresh assessment pursuant to order passed by the ITAT or revisionary order passed by Pr. CIT / CIT -

^ from the end of the F.Y. in which order is received u/s 254 (ITAT order), 263 & 264 (revision of order)

@ effect to order of appellate authorities [CIT(A), ITAT, HC, SC] or revisionary orders passed by Pr. CIT / CIT or order of Settlement Commission - wholly or partly not fresh assessment or reassessment

\# from the end of the month in which order is received or passed by the relevant authority

$ effect to order of appellate authorities [CIT(A), ITAT, HC, SC] or revisionary orders passed by Pr. CIT / CIT or order any court - requiring fresh assessment or reassessment

❶ for cases pending as on 1st June 2016, time limit for taking requisite action is proposed to be 31-03-2017 or 12 months whichever is later

Where the cases are referred to the T-P officer, the due date for completion of assessment shall be further extended by 12 months [S. 153(4)]

Besides above, similar changes are proposed in search cases [S. 153A / 153C]

(Effective from 1st June 2016)

Revised time limit for rectifying the order by the ITAT [S. 254(2)]

It is proposed to reduce the time limit for rectifying any mistake by ITAT, apparent from the record in its order,

from

- 4 years from the date of order

to

- 6 months from the end of the month in which order was passed

(Effective from 1st June 2016)

Time limit for disposing application for reduction / waiver of interest / penalty [S. 220(2A), S. 273A, S. 273AA]

The assessee can make an application, to Pr. CCIT / CIT, CCIT / CIT, to reduce or waive interest or penalty levied u/s 220(2A) or S. 273A / 273AA respectively.

Presently, no time limit has been prescribed for disposing off the application filed by the assessee.

It is now proposed to provide that an order accepting or rejecting the application filed by the assessee shall be passed within a period of 12 months from the end of the month in which such application was received.

It is also proposed that no order rejecting the application of assessee shall be passed without giving the assessee an opportunity of being heard. (Effective from 1st June 2016)

Paperless Assessment [S. 282A(1) & 2(23C)]

It is proposed that notices and documents required to be issued by the I-T authorities under the ITA shall be issued by such authority either in paper form or in electronic form as per the procedure as may be prescribed

It is also proposed to define the term "hearing" to include communication of data & documents through electronic mode. (Effective from 1st June 2016)

Interest on Refund due [S. 244A]

Existing Provision

Presently, assessee is entitled to interest on refund, arising out of excess payment of advance tax, TDS or TCS. The period of interest starts from 1st April of the A.Y. till the date of payment of refund.

Proposal in Finance Bill, 2016

Scenario	Period for grant of interest
Interest on refund of excess payment of prepaid taxes & RoI is filed after due date	Begins from the date of filing of RoI
Interest on refund of Self Assessment Tax (SA Tax)	Begins from the date of payment of SA Tax or date of filing of RoI, whichever is later to the date on which refund is granted, after adjustment of prepaid taxes.
Refund arising out of appeal effect order & there is delay in passing order giving effect to appellate order beyond 3 months	From the date of expiry of 3 months or extended period as the case may be till the date of grant of refund #

additional interest of 3% p.a. over and above the interest u/s 244(1)

Govt. is moving towards digitization of compliance procedure, not requiring physical interaction with I-T officers

11. Penalty Provisions (Effective from A.Y. 2017-18)

Existing Provision

Currently, penalty is levied u/s 271(1)(c) on -
- concealment of particulars of income or
- furnishing inaccurate particulars of income

Under the existing provisions of S. 271(1)(c), I-T authority has ***discretion*** to levy penalty at the rate of **100% to 300%** of the tax sought to be evaded .

Proposal to withdraw existing S. 271 and insert new S. 270A

It is now proposed to insert all together a new S. 270A w.e.f. 1st April 2017 in place of existing S. 271. Thus, S. 271 shall stand withdrawn w.e.f. 1st April 2017.

Cases covered for levy of penalty

Under the newly proposed S. 270A, penalty is levied in the cases of -
- under reposting of income and
- misreporting of income

Rate of penalty

Scenario	Rate of Penalty
Under- reporting of income	**50%** of tax payable on under-reported income
Under-reporting of income on account of misreporting of income	**200%** of tax payable on such misreported income

Cases of under-reporting and misreporting

Memorandum to Finance Bill, 2016 has specified cases where a person shall be considered to have under-reported or misreported his income.

It has specified 6 cases each for under-reporting and misreporting of income.

It has also specified cases, not to be considered for under-reporting of income.

Addition or disallowance of amount - not to form basis for levy of penalty in certain cases

It is proposed that addition or disallowance of an amount shall not form the basis for imposition / levy of penalty, if such addition or disallowance has formed the basis of imposition of penalty for the same or any other assessment year.

Penalty in respect of undisclosed income [S. 271AAB]

Currently, penalty ranging from **30% to 90%** of the undisclosed income is to be levied in cases where search has been initiated u/s 132 of the ITA, 1961.

It is proposed to amend the above section so as to provide **flat penalty @ 60%** on such undisclosed income

Penalty for each failure or default to comply with a notice u/s 142(1), 142(2A) or 143(2) [S. 272A]

Proposed penalty of Rs. 10,000 for each default or failure.

Immunity from penalty and prosecution [New S. 270AA]

It is proposed to provide that an assessee may make an application to the AO for grant of immunity from imposition of penalty u/s 270A and initiation of proceedings u/s 276C subject to following conditions -

- assessee pays the tax & interest as per the order of assessment or reassessment within the time limit specified under notice. AND

- assessee does not prefer appeal against such assessment order.

Application can be made within 1 month from the end of the month in which order of assessment or reassessment is received.

Further, AO shall pass an order, accepting or rejecting such application within 1 month from the end of the month in which such application was received.

It clearly appears to be a step towards non-litigious approach, substantially reducing discretionary powers of the tax officers.

12. Income Declaration Scheme, 2016 [New Chapter IX]

Scheme for whom

Any person who has not disclosed his income and not paid taxes on the same may voluntarily declare such undisclosed income which is chargeable to tax.

Undisclosed income - upto which date

Upto F.Y. 2015-16

Period for declaring such undisclosed income

Start - 1st June 2016
End - date as may be notified

Rate of tax

45% tax will be chargeable on such undisclosed income

Break-up of 45% tax
- 30% basic tax on undisclosed income
- 25% surcharge on tax payable
- 25% penalty on tax payable

No Refund

Any tax, surcharge or penalty paid under this Income Declaration Scheme shall not be refundable.

Cases not eligible for the scheme

- where notices have been issued u/s 142(1) / 143(2) / 148 / 153A / 153C
- where search / survey has been conducted and time for issuance of notice under the relevant provisions has not expired
- where information is received under agreement with foreign countries regarding such income
- case covered under Black Money Act, 2015
- persons notified under Special Court Act, 1992
- cases covered under Indian Penal Code etc.

Key benefits

- exemption from wealth tax in respect of assets specified in declaration
- no scrutiny and enquiry under the Income Tax Act and Wealth Tax Act be undertaken in respect of such declaration
- immunity from prosecution under Income Tax Act ("ITA") and Wealth Tax Act ("WTA")
- immunity from Benami Transactions (Prohibition) Act, 1988 subject to certain conditions

Declaration to be considered void

Where declaration has been made by misrepresentation of fact or suppression of facts, such declaration shall be void.

Proposed scheme is re-introduction of "Voluntary Disclosure of Income Scheme, 1997" in its new "awataar"

13. Direct Tax Dispute Resolution Scheme, 2016 [New Chapter X]

Applicability

It is proposed to introduce "The Direct Tax Dispute Resolution Scheme, 2016" w.e.f. 1st June 2016 in relation to -

a) "tax arrear" and
b) "specified tax"

"tax arrear" means, the amount of tax, interest or penalty, determined under the Income Tax Act ("ITA") or Wealth Tax Act ("WTA"), in respect of which appeal is pending before the CIT(A) as on 29th February 2016.

"specified tax" means a tax, the determination of which is in consequence of a retrospective amendment in ITA or WTA for a period prior to the date of enactment of such amendment and dispute in respect of such tax is pending as on 29th February 2016.

Procedure of declaration

A declarant may file a declaration to the designated authority, in such form and verified in such manner as may be prescribed, on or after 1st June 2016, but on or before such date as may be notified by the Central Govt.

Declaration may be in respect of pending appeal in respect of "tax arrear" or "specified tax".

Scheme features for declaration in relation to "tax arrears"

- Scheme is applicable for pending appeals before CIT(A) or CWT(A)
- Pending appeal could be against assessment order or penalty order
- Upon filing of declaration, pending appeal shall be deemed to be withdrawn

- Declarant will be required to pay applicable tax and interest upto the date of assessment as follows -

Disputed Tax Amount	Amount required to be paid in pending assessment cases	Amount required to be paid in pending penalty cases
Upto Rs. 10 lacs	100% of tax & interest	100% of tax & interest (+) 25% of min. penalty
More than Rs. 10 lacs	100% of tax & interest (+) 25% of min. penalty	100% of tax & interest (+) 25% of min. penalty

- Declarant will get immunity from prosecution or penalty proceedings for any offence under the Act.

Scheme features for declaration in relation to "specified tax "

- Declarant has to withdraw any appeal or writ petition filed before any appellate authorities
- Declarant has to submit the proof for the same
- Declarant will also have to furnish an undertaking in specified manner so as to waive the right to seek or pursue any remedy under any law
- In such cases, the declarant is required to pay only tax due to retrospective amendment.
- No interest and penalty is required to be paid

Time and manner of payment

Upon filing the declaration, the designated authority shall determine the tax payable within 60 days from the date of receipt of declaration.

Declarant is required to pay the tax within 30 days from the date of order passed by the designated authority.

No Refund

Amount paid under the scheme will not be refundable under any circumstances.

14. Other Amendments

Hon'ble Finance Minister has proposed few other amendments also, in respect of -

- Tax benefits to Sovereign Bond Scheme, 2015
- Tax benefits to Rupee Denominated Bonds
- Tax treatment of Gold Monetization Scheme, 2015
- Levy of tax where charitable trust ceases to exist or converts into a non-charitable organization etc.

Contact

106, Ackruti Chambers,
Above Kotak Mahindra Bank,
Opp. Laxminarayan Cinema,
Pune - Satara Road,
Pune 411 037.

Tel. : (020) 2427 0164
Mob. : (91) 99237 55752
: (91) 99606 41986
e-Mail : info@ckdca.com