Ahmedabad

Baroda

Mumbai

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UNION BUDGET 2018

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Economic Highlights (1/3)

Total Planned Expenditure
INR 29.20 Lakh Crore (Approx)

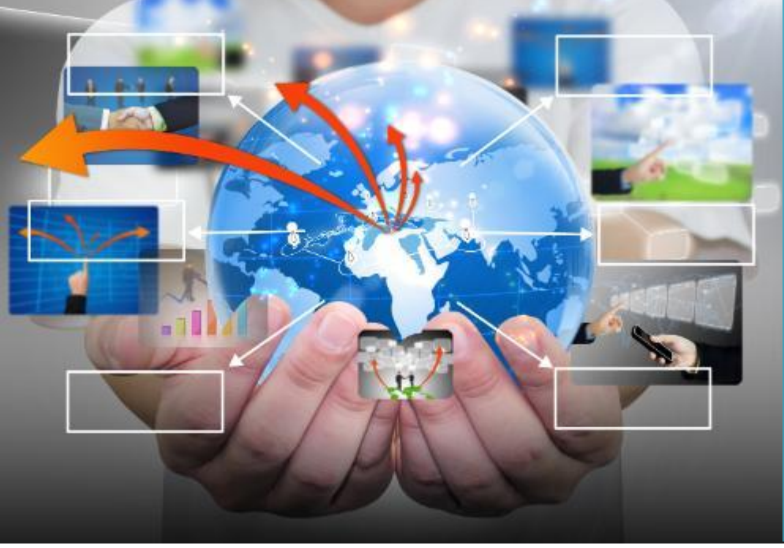
Total Revenue from Taxes	Revenue from other sources	Resultant Deficit
INR 14.81 Lakh Crore	INR 9.18 Lakh Crore	INR 5.21 Lakh Crore

- The Target Fiscal deficit for the year FY 18-19 is 3.3% as compared to 3.5% for FY 17-18
- GDP growth in 2018-19, targeted to be 7.2%.
- Major thrust on strengthening agriculture and rural economy, provision of good health care to economically less privileged, taking care of senior citizens, infrastructure creation and working with the states to provide more resources for improving the quality of education in the country.

Area-wise implication of budget:-

Agriculture sector

- An Agriculture market Infrastructure Fund with a corpus of INR 2,000 crore will be set up.
- Allocation of funds in food processing sector is being doubled from INR 715 crore in FY 2017-18 to INR 1400 crore in FY 2018-19.
- To raise Institutional credit for agriculture sector from INR 10 lakh crore in 2017-18 to INR 11 lakh crore for the year 2018-19.
- MSP for crops at 1.5 times the production cost.
- To take India's agricultural exports to US $ 100 billion as against current exports of US $ 30 billion by liberalizing export of agricultural commodities procedure.
- To promote bamboo sector in a holistic manner a Re-structured National bamboo mission with an outlay of INR 1290 crore to be launched.
- INR 10,000 crore allotted for animal husbandry
- Introduction of new scheme "Operation greens" with an outlay of INR 500 crore to address challenge of price volatility of perishable commodities like tomato, onion and potato with satisfaction of both farmers and consumeINR
- INR 2,000 crore for upgradation of rural haats.
- INR 5,750 crore allotted towards National Rural livelihood mission
- INR 2,600 crore for irrigation facilities.
- Facility of Kisan credit cards to fisheries and animal husbandry, farmers to help them meet their working capital needs.



Economic Highlights (2/3)

Infrastructure sector

- Airport capacity to be increased five-fold to facilitate 1 billion trips per year.
- Total infrastructure spending targeted at INR 5.97 lakh crore for FY 2018-19 against INR 4.94 lakh crore in FY 2017-18
- INR 2.04 lakh crore allotted for 99 smart cities.
- Rural infrastructure spending estimate for 2018-19 at INR 14.34 lakh crore.
- 18 kms of doubling, 3rd, 4th line works and 5 kms of gauge conversion planned

Education

- Major initiative named "Revitalizing infrastructure and system in education(RISE) by 2022, with a total investment of INR 1,00,000 crore in next four year.
- The government proposes to increase digital intensity in education and move gradually from blackboard to digital board.
- Government will identify 1000 Btech students each year and provide them to do PHD's in IIT and IISc while also teaching undergraduate students once a week at that time.

Direct Tax

- Tax on dividend on equity MF Schemes of 10%
- Health and education cess raised from 3% to 4%
- Standard deduction of INR 40,000 for transport and medical for salaried class.

Markets

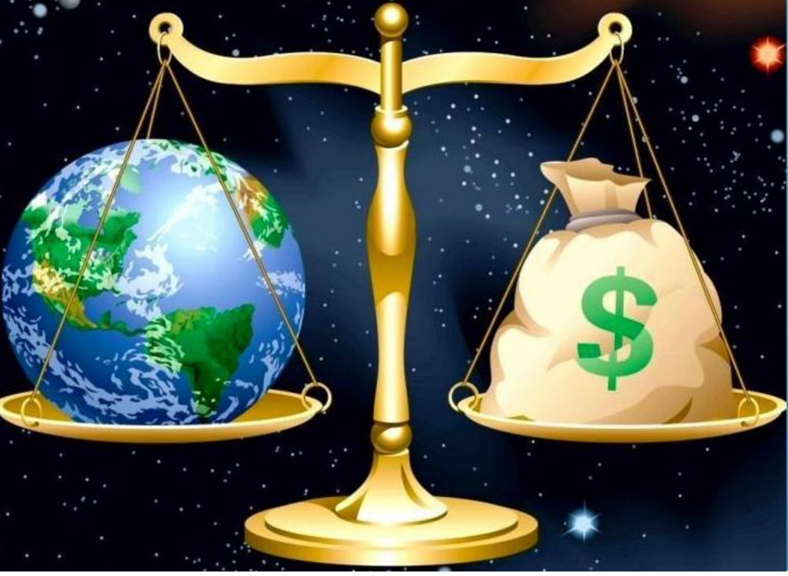
- Long Term capital gains tax of 10% imposed on gains of INR 1,00,000
- STCG Tax continues to be 15%
- Capital gains made on shares until January 31,2018 grandfathered

Health Care

- The National Health Policy, 2017 has envisioned Health and Wellness Centres as the foundation of India's health system. These 1.5 lakh centres will bring health care system closer to the homes of people, INR 1,200 crore has been proposed in this budget for this flagship program.
- Flagship National Health protection scheme to cover over 10 crore poor and vulnerable families(approximately 50 crore beneficiaries) providing coverage upto INR 5 lakh per family per year for secondary and tertiary care hospitalisation.
- INR 600 crore allocated for tuberculosis patients at the rate of INR 500 per month during the course of their treatment.

Rural sector

- Free LPG Connections to 8 crore poor women to make them free from the smoke of wood.
- INR 16,000 crore allotted for electricity connection to poor families



Economic Highlights (3/3)

- Allocation of INR 9975 crore in National Social Assistance program.
- Government plans to construct 2 crore toilets in next fiscal year under swach bharat mission.
- 31 lakh homes to be build in urban areas in 2018-2019 and 51 lakh in rural areas.

Technology

- Allocation to Digital India scheme doubled to INR 3,073 crore.
- 5 lakh WiFi HotSpots to provide Broadband access to 5 crore rural citizens, at the cost of INR 10,000 crore.

Oil sector

- Reduction in basic excise duty on petrol and diesel has been nullified.
- INR 6 per litre additional duty of excise on both abolished
- New INR 8 per litre "Levy of Road and Infra cess" introduced.

NCLT

- Tax relief for companies under insolvency and Bankruptcy code.
- Defaulting companies being tried under NCLT can carry forward their losses to set off against taxable income.

Imports

- Government has levied an additional social welfare surcharge on all imports at 10%, thus replacing the 3% education cess.
- This will further increase landed price of imported goods.

Small Business

- Target of INR 3 lakh crore for lending under PM Mudra Yojana.
- 25% corporate tax benefit extended to MSME's having upto INR 250 crore turnover.
- INR 3,794 crore allocated to the MSME sector.

Direct Tax Proposals

Rate Card

(1/3)

For Individuals, HUF, AOP& BOI

Gross Total Income	Tax Rate
Up to INR 2,50,000	Nil
INR 2,50,001 to INR 5,00,000	5%
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

In case of Resident Individual Ageing 60-80 years:

Gross Total Income	Tax Rate
Up to INR 3,00,000	Nil
INR 3,00,001 to INR 5,00,000	5%
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

In case the Resident Individual of the age 80 years & above:

Gross Total Income	Tax Rate
Up to INR 5,00,000	Nil
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

For Co-operative Societies

Particulars	Tax Rate
Up to INR 10,000	10%
INR 10,001 to INR 20,000	20%
Above INR 20,001	30%

Corporate Tax Rate Card

Particulars	Tax Rate
Tax Rate for Domestic Companies with Total Turnover/ Gross Receipts not exceeding INR 250 Cr. in FY 2016-17…Surcharge to continue at applicable levels	25%
Tax Rate for Domestic companies other than that covered under (a) above	30%
Tax Rate for Foreign Companies	40%
Tax Rate for Partnership Firms, LLP's	30%
Societies Other Than Co-operative Societies	30%
Newly setup domestic company involved in manufacturing	25%

- Rates mentioned above are excluding (Health and Education Cess). EC and HEC shall be discontinued from F.Y. 2018-19. **However, new Health and Education cess is applicable @ 4% on taxes plus surcharge (as applicable) from F.Y. 2018-19.**

Direct Tax Proposals

Rate Card

(2/3)

Surcharge

Assessee	Income Range	Surcharge
Domestic Company	Up to INR 1 Cr INR 1 Cr to INR 10 Cr Above INR 10 Cr	Nil 7% 12%
Foreign Company	Up to INR 1 Cr INR 1 Cr to INR 10 Cr Above INR 10 Cr	Nil 2% 5%
Non Corporate assessee such as Firms	Up to INR 1 Cr Above INR 1 Cr	Nil 12%
Non Corporate assessee– Individuals, HUF, AOP, BOI	Up to INR 0.5 Cr INR 0.5 Cr to INR 1 Cr Above INR 1 Cr	Nil 10% 15%

Rates of STT

Sr. No	Security Transaction Tax	Payable by whom	Rates
1	Purchase/Sale of equity shares (delivery based)	Purchaser/ Seller	0.1%
2	Purchase of units of equity-oriented mutual fund(delivery based)	Purchaser	Nil
3	Sale of units of equity-oriented mutual fund	Seller	0.001%
4	Sale of equity shares, units of equity-oriented mutual fund(non-delivery based)	Seller	0.025%
5	Sale of option in securities (Erstwhile 0.017%)	Seller	0.05%

Withholding Rates for Non Residents:

Nature of Income	Tax Rates
Dividend (other than Dividend on which DDT has been paid)	20%
Interest received on loans given in foreign currency	20%
Income received in respect of units purchased in foreign currency of specified mutual funds/ UTI	20%
Sports persons and entertainers	20%
Interest received on notified infrastructure bond	5%
Interest on FCCB, FCEB/ Dividend on GDR's	10%
Royalty / Fees for technical services	10%
Interest income received by FII or QFI on rupee denominated bonds or government securities	5%
Distributed income in the nature of interest received by unit holder form the business trust	5%
Interest received form Indian Company or Business Trust on monies borrowed in foreign currency and approved by the Central government	5%

Note: In case of Payments exceeding INR 1 crore:

i. The amount of TDS, in the case of payments to a non-resident person (other than a company), shall be increased by a surcharge at the rate of 15%

ii. 12% surcharge in case of payments to a firm or cooperative society

iii. 2% or 5% surcharge in case of Companies as the case may be

Direct Tax Proposals

Rate Card

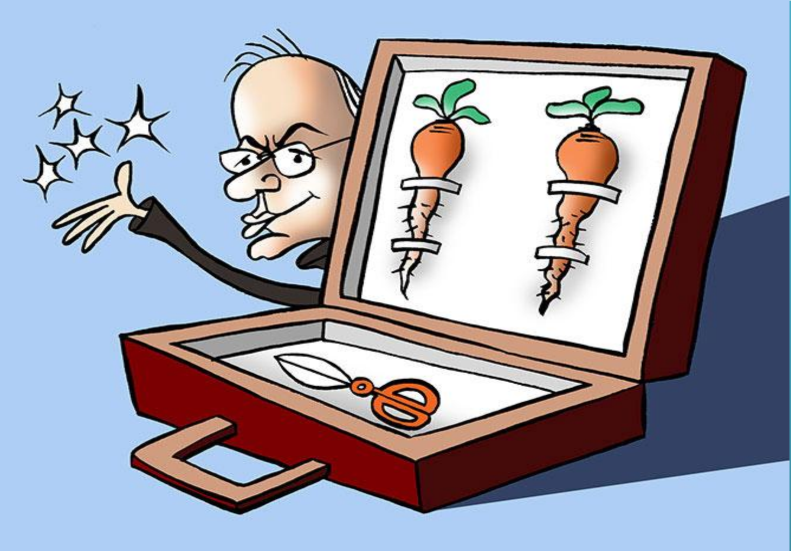
(3/3)

Capital Gain Tax Rates:

Gross Total Income	Short Term	Long term
On purchase as well as sale of equity shares on which STT has been paid	15%	10%
In case of non-resident for sale of shares of unlisted companies.	-	10%
Sale of any other asset other than as mentioned above		
Individuals	As per the slab rates	
Firms & LLP's	30%	20 % with indexation: 10% without indexation in case of unlisted securities and zero coupon bonds (other than units).
Domestic Companies	30%	
Foreign Companies	40%	
Local authorities	30%	
Co-operative societies	As per the slab rates	
Overseas Financial Organizations specified in section 115AB	40%(corporate) 30%(Non-Corporate)	10%
FII's	30%	10%

Threshold limit of newly inserted sections for deduction of tax at source on various payments made to resident assessee

Section	Particulars	Proposed Threshold Limit (INR)	Rate
194-IB	Payment to a resident by way of rent to a person other than that provided under section 194-I	50,000 (per month)	5%
194-IC	Payment to a resident under the Joint development agreement as referred in subsection (5A) of Section 45.	-	10%
Proviso to 194-J	Person engaged only in the operation of Call Centre.	30,000	2%



Direct Tax Proposals

Personal Taxes

(1/2)

- No Personal Income Tax changes in rates of taxes proposed in Budget

- **Standard Deduction of INR 40,000 to Salaried Persons:** On one hand the FM has given INR 40,000 standard deduction but on the other snatched away INR 15,000 medical reimbursement and INR 19,200 pertaining to Transport Allowance. This means effective benefit of a paltry sum of INR 5,800 which will again, more or less, neutralised by 1 per cent hike in health and education cess.

Illustration of Income under the head Salary considering the changes in budget

Particulars	Existing	Post Budget
Gross Salary	10,00,000	10,00,000
Standard Deduction on salary	NIL	40,000
Transport Allowance (P.M. INR 1600)	19,200	NIL
Medical Reimbursement (Maximum Available)	15,000	NIL
Income under the head Salary	*9,65,800*	*9,60,000*

- **Introduction of new 7.75% GOI Savings (Taxable) Bonds, 2018:** Government has introduced new 7.75% GOI savings bonds. Earlier it was the 8% GOI Savings bonds scheme which has now been discontinued. The interest received from the bonds will be taxed in hands of the recipient. TDS will be made at the time of making payment of interest (exceeding interest of INR 10,000) on such bonds to residents.

- **Benefit of tax-free withdrawal from NPS now available to non-employee subscriber as well:** An employee contributing to the NPS is allowed an exemption in respect to 40% of total amount payable to him on the closure of his account or on his opting out. Now, the said benefit of exemption is also available to the non-employee subscriber. Earlier, this exemption was not available to non-employee subscriber.

- **Capital gain savings bond scheme (Section 54-EC):** Investors intending to save on long-term capital gain tax by investing in special Capital Gains Bonds will now have to stay invested for five years from the earlier limit of three years. This tax benefit is applicable only for gains from real estate transactions.

  Given that the interest rates on these bonds are very low – about 4-5% - the higher lock-in period will serve as a disincentive for investors. Five years is too long a period, considering the very low returns. Instead, investors may end up making more money by paying the tax and re-investing the balance in alternative asset classes.

  The amendment is applicable for bonds issued on or after 1st April, 2018 by the National Highways Authority of India or by the Rural Electrification Corporation or any other bond notified by the Government.

Direct Tax Proposals

Personal Taxes

(2/2)

- **Benefits to senior citizens in terms of Health and Medical Insurance:** Deduction limits for health insurance premium and medical expenditure in case of senior citizens increased from INR 30,000 per year to INR 50,000 per year. In case of single premium policies where coverage extends for more than one year, deduction for premium to be allowed proportionately (Section 80 D) (From F.Y. 2018-19). In respect of critical illness (which are notified) deduction limit for such expenditure increased from INR 60,000 to INR 1,00,000 (for super senior citizens as well which was INR 80,000 earlier) (Section 80 DDB)

- **Benefit to senior citizen in case of Interest income:** A deduction shall be allowed to senior citizens in respect of interest earned upto an amount of INR 50,000 (Earlier Limit INR 10,000) from savings accounts, post offices etc. Consequentially the threshold limit for TDS on interest paid to senior citizens also increased to INR 50,000 (Section 80 TTB).

Calculation of Income considering the changes in budget (Resident Senior Citizen <80)

Particulars	Existing	Post Budget
Gross Income	10,00,000	10,00,000
Deduction under Section 80C	1,50,000	1,50,000
Deduction under Section 80D	30,000	50,000
Deduction under Section 80DDB	60,000	1,00,000
Deduction under Section 80TTA/80TTB	10,000	50,000
Taxable Income (after considering the deductions as discussed herein above)	9,00,000	8,00,000
Income Tax (Basic Exemption limit is 3,00,000)	70,000	50,000
Cess @3%/4%	2,100	2,000
Total tax	72,100	52,000

Direct Tax Proposals

LTCG on Equity shares & Mutual Funds (1/2)

Re-introduction of Long term Capital Gain on gains above INR 1,00,000

- Long-term capital gain (LTCG) on sale of equity shares / units of mutual fund has been reintroduced w.e.f 01.04.2018. Thus, a new provision (Section 112A) has been introduced proposing to tax gains arising from selling of Equity shares or units of Mutual funds. The LTCG on transfer of such shares andmutual funds in excess of INR 1,00,000 (in total per assessee) shall be taxed at the rate of 10%.

- The concessional rate of 10% on such LTCG shall be available provided Securities Transaction Tax (STT) has been paid without indexation benefit and foreign exchange fluctuation benefit (in case of non-residents)

- The cost of acquisition while computing the LTCG for shares acquired on or before 31st January 2018 shall be higher of:
  1. Actual cost paid for acquiring such shares or units of Mutual Funds
  2. Lower of:
     a. FMV of the shares or mutual fund as on 31.01.2018 (FMV in case of Shares would mean the highest price quoted on stock exchange on 31.01.2018. Whereas FMV in case of Mutual Funds would be price of NAV as on 31.01.2018).
     b. Full value of Consideration received or accruing as a result of transfer of capital gain.

- It is important to note that the LTCG shall be made taxable only on Shares or Units sold on or after 01/04/2018. For Shares and Units sold prior to 01/04/2018, no liability of Capital Gains shall get attracted.

- Further, benefits of deductions under chapter VI-A (such as 80G, 80C etc.) and rebate under Section 87A (to the extent of Rs 2500, if applicable) shall not be available against such gains.

- Further in our opinion, any losses on transfer of shares on or after 01.04.2018 shall be eligible for a set off against LTCG. For the purpose of computation of losses, the cost to be taken shall be the actual cost incurred and no inference to the prices on 31.01.2018 shall be made. Please refer next slide for our in-depth analysis.

- Further, the said amendment is also applicable in the case of Foreign Institutional Investor mutatis-mutandis.

Direct Tax Proposals

LTCG on Equity shares & Mutual Funds (2/2)

Sr. No	Particulars	Scenario 1	Scenario 2	Scenario 3	Scenario 4
1	Sale Price of 1 share of Reliance on 1st April,2018 or thereafter (X)	1,000	1,000	1,000	800
2	Purchase price of 1 share of Reliance (Purchased on 1st May 2017) (Y)	750	950	1,200	850
3	Highest Price of Reliance in a recognised stock exchange on 31st January 2018 (Z)	900	900	900	900
4	***Cost of Acquisition for the purpose of Computing Capital Gains i.e. higher of Y and Z***	900	950	1,200	850
5	Taxable Capital Gains (1-4)	100	50	-	-
6	Losses available for set off against LTCG (1-4)	-	-	-200	-50

Notes:	
A	LTCG would be applicable only in cases securities or units of mutual fund are transferred on or after 01.04.2018
B	The benefit of grandfathering provisions i.e. substituted costs of 31.01.2018 shall be made available only for securities or units purchased on or before 31.01.2018
C	Permissible Cost of Acquisition shall be higher of Costs actually incurred or Market Value of the security as on 31.01.2018. However, the same rule shall not apply when computing the Long term capital losses as losses shall be restricted to the extent of cost actually incurred

Direct Tax Proposals

Corporate Taxes

(1/3)

Reduced Income-Tax Rates in case of Corporate Assessee

Corporate tax rate of the MSME Companies have been reduced from 30% to 25%. In order to get benefit of the said concessional tax rate, the total turnover or gross receipt of the said Company in the ***F.Y. 2016-17*** should not be in excess of INR 250 Crores.

A much needed respite has been offered by way of reduction in Corporate Tax rate to the domestic companies fulfilling the above conditions. However, the said benefit is not extended to partnership firms,LLPs, proprietorship, & companies other than domestic companies i.e. Foreign companies or the companies having turnover/gross receipts more than INR 250 Crores in financial year 2016-17. Further the corporate tax rate though has been reduced from 30% to 25% (in select cases) the rate of MAT has been kept unchanged which does not reduce the tax outflow in case of many companies

Following example will give better clarity for taxability in AY 2019-20 (FY 2018-19)

Situation 1:
Total Turnover / Gross receipts in FY 2016-17: INR 249Crores
Total Turnover / Gross receipts in FY 2017-18: INR 251Crores

Situation 2:
Total Turnover / Gross receipts in FY 2016-17: INR 251Crores
Total Turnover / Gross receipts in FY 2017-18: INR 249Crores

Considering taxation aspect for FY 2018-19 (AY 2019-20), MSME Companies covered under Situation 1 will only get benefit of reduced tax rate as budget proposes to consider total turnover / gross receipt for FY 2016-17. Still there is no clarity onto determining taxability in case an MSME is covered by Situation 2.

Computing MAT in case of companies being referred to IBC

In case of companies whose application has been admitted by Adjudicating Authority for corporate insolvency resolution process under Insolvency & Bankruptcy Code, 2016 (IBC),the aggregate amount of unabsorbed depreciation & loss brought forward (excluding unabsorbed depreciation) as per books shall be allowed to be reduced from the book profit.

For calculation of book profit under Section 115JB, the amount of losses brought forward or unabsorbed depreciation whichever is less as per books of account was allowed as a deduction. This used to act as a barrier to any company opting for rehabilitating process since either the loss brought forward or unabsorbed depreciation would be Nil, not permitting any deduction while computing profits under MAT Hence practically no deduction was ever allowed under the MAT provision.
Now in order to grant benefit of losses and unabsorbed depreciation to companies being referred to IBC, since they are already under stressed financial conditions, it is provided that the aggregate amount of unabsorbed depreciation and brought forward losses shall be allowed to be reduced from the book profit

Direct Tax Proposals

Corporate Taxes

(2/2)

Scope of "accumulated profits" enhanced for considering dividend

- The scope of accumulated profits is increased in case of the amalgamated company. It is to be noted that dividend is applicable only to the extent of accumulated profits.

- Now, the companies with large accumulated profits adopt the amalgamation route to reduce capital & circumvent the provision of dividend.

- With the view to prevent such abusive arrangement, it has been proposed to widen the definition of *accumulated profits* for the purpose of dividend. *In the case of amalgamated company the accumulated profits or losses will be increased by the accumulated profits of the amalgamating company on the date of amalgamation.*

DDT made applicable in case of deemed dividend

- *As per the existing provisions, deemed dividend u/s 2(22(e) is taxable in the hands of recipient i.e. shareholder to whom the loans or advance is granted by the company. Seldom shareholders offered such dividend income for taxation resulting into a tax loss for the government.*

- Now the incidence of tax has shifted from the shareholders to the company itself, failing which will make the company a defaulter in compliance.

- Deemed dividend would be attracted in case of the unlisted companies granting any loans or advances to its shareholder holding 10% or above or to a concern in which such shareholders holds 20% or more. Dividend Distribution Tax (DDT) is proposed to be levied on deemed dividend @ 30% (no grossing up required) in the hands of company in order to prevent camouflaging of dividend by the shareholders of the company. In view of this proposal, section 115Q is amended and the amended provision would now state that a company not deducting DDT on such dividend shall be treated as a 'company deemed to be in default'.

Applicability of DDT in case of Equity Oriented Mutual Fund

The equity oriented mutual funds was kept out of the purview of the dividend distribution tax. Now from the FY 2017-18, any income distributed by the equity oriented mutual funds shall be subject DDT@ 10% in the hand of mutual fund.

Benefits of Carry Forward & Set off Losses in case of companies referred to IBC

To get the advantage of carry forward & set off of losses, Itis compulsory for the closely held companies to have the continuity in beneficial ownership of atleast 51 percent of the voting power on the last day of the year in which loss is incurred. In this regards, it has been proposed for companies, whose resolution plan has been approved under the Insolvency & Bankruptcy Code, 2016 (IBC), *to* relax the above mentioned condition of minimum beneficial ownership in order to be eligible to carry forward or set off of losses.

Direct Tax Proposals

Corporate Taxes

(3/3)

Compensation in connection to business or employment now under the net of Income-Tax

- Compensation received or receivable, whether being capital or revenue in nature, on breach of any business related contracts or on account of modification of terms & condition of any business related contra cts is propose to be taxed under income from business & profession which was out of the purview taxation.

  Example: A company entered into contract with supplier B for providing 2000 tonnes of palm oil for manufacturing activity. But later on supplier B was not able to deliver the same. Company asked for compensation from the supplier B as per the terms & condition of contract which in turn the supplier paid for the compensation. On account of the amendment, now it will fall under the purview of taxability in the hands of Company A.

- Compensation received or receivable, whether being capital or revenue in nature, on breach of contracts or on account of modification of terms & condition of contracts relating to employment is propose to be taxed under income from other sources which was out of the purview taxation.

  Example: Mr. X was appointed as a whole time managing director of ABC ltd for a term of 5 years starting from 1st April 2015 to 31St March 2020, due to modification in his term of contract he resign from his post on 05th May,2018. M/s. ABC Ltd awarded Mr. X with a compensation of INR 10 Lakh for pre termination of the contract. What will be the effect of Compensation received in the hands of Mr. X?

  The Compensation received in the hands of Mr. X is now taxable as Income from other Source earlier the said income was out of purview of taxation leading to tax erosion & revenue loss to the government.

Tax Neutral Transfers

- Section 47 provides for certain tax neutral transfers, which includes transfer of capital assets between the wholly owned subsidiary company and its holding company. However, section 56 (X) under the head "Income from Other Source taxed transactions with inadequate consideration for transfer of capital assets from subsidiary to the holding company and vice versa.

- Now , 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 section 56 so as to exclude such transfer between holding and subsidiary from its scope.

Clarificatory amendments for applicability of MAT

- It is proposed that the provisions of MAT shall not be applicable & shall be deemed never to have been applicable to foreign companies/non-residents who are into shipping business(Section 44B), exploration, etc. of minerals business (Section 44BB), operations of aircrafts business (Section 44BBA) or civil constructions, etc. in certain turnkey power projects (Section 44BBB).

Direct Tax Proposals

Tax Incentives

(1/2)

Start-up – Tax incentives period extended – Section 80IAC

Up-till now, the government had introduced following measures to boost the start-up ecosystem:

- No Capital Gains tax on property sold to invest in Start-up
- No Income Tax on profits to Start-up for consecutive 3 years out of 7 years
- Self-certification compliance for Start-ups
- No inspection for first 3 years of a Start-up
- Simplified Patent regime & IPR
- Credit guarantee scheme for loans
- 80% rebate on patent filling fees
- Relaxation in carry forward and set-off of losses

Despite the government's proactive intent, the numbers on the ground suggested a different story. Our observation suggested that very few companies could obtain the eligibility of being a start-up, hence, in order to improve the effectiveness of the scheme promoting start-ups, following changes are proposed which will ensure greater coverage coupled with tax benefits.

- Start-up registered after 1^{st} April, 2018 but before 1^{st} April, 2020 will also be eligible for all the above tax incentives
- Turnover of the start-up should not exceed INR 25 crore in 7 financial years (including the financial year in which start-up is incorporated
- The definition of eligible business unnder start-up has been expanded to cover more and more business entities

In amove that could benefit the eco-system for enterprenuers, it is proposed not only to extend tax exemption for start-ups by two years but also changed the definiton to widen the ambit beyond technology related ventures. The proposal will allow more and more start-up entities to get tax incentive. Theseamendments are effective from F.Y 2017-18.

Deduction for Farm Producer Companies – Section 80P

- Farm Producer Company ("FPC") is a hybrid form of "co-operative societies and private limited companies", whose objective is to organize farmers into a collective form to improve their bargaining strength in the market.
- It is proposed to give 100% deduction in respect of profit of FPC (having turnover up to INR 100 crore) if the related income is derived from following activities:
  - Marketing of agriculture produce grown by its members
  - Purchase of agriculture produce for the purpose of supplying them to its members
  - Processing agriculture produce of its members

The said proposal shall ensure that the farm produces reach out to ultimate consumers from the farms with maximum returns for farmers. This re-iterates the Government's promise of doubling the income of the farmers by 2022. These amendments are effective from F.Y 2017-18.

Direct Tax Proposals

Tax Incentives

(2/2)

Employment linked tax incentives – Section 80JJAA

- Currently, a deduction of 30% is allowed in addition to normal deduction of 100% in respect of salary paid to eligible new employees who have been employed for a minimum period of 240 days during the year.
- It is proposed to expand the said benefits to footwear and leather industry.
- It is proposed to decrease minimum period of employment from 240 days to 150 days in case of footwear, leather and apparel industry.
- It is proposed to rationalise the 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. Lets understand this by way of an example:
  - Mr. A was employed by XYZ Pvt. Ltd. for 100 days during FY 2017-18 (less than minimum period) and assuming for more than 240 days in FY 2018-19. In FY 2017-18, the company will not be eligible for additional deduction as Mr. A was employed for less than 240 days. Thus, under the existing provisions even though XYZ Pvt. Ltd. creating additional employment, was not able to claim deductions on account of stringent conditions. Now, as per the amendment, the company will be eligible for additional deduction of 30% of the salary paid to Mr. A in FY 2018-19.

The earlier rules had specified that if an employee worked for 240 days or less in the first year of getting hired, then the company was ineligible for claiming tax benefits. This had given rise to a scenario where an employee has worked for less than 240 days (in a non-textile firm) in the first year, but for the entire year in year two and year three, even if all the other conditions are met with, the company was still not able to claim the eligible tax deductions in any of the three years. The proposed provisions will remove the above difficulty in all respect for second and third year. The said provisions are applicable from FY 2018-19.

Direct Tax Proposals

Other Tax Reforms

(1/3)

- **Compulsion to obtain PAN for transactions exceeding INR 2,50,000:** Government has made PAN compulsory for every person other than individuals, entering into financial transaction of INR 2,50,000 or more. The same shall be used as Unique Entity Number (UEN) for non-individuals from 1st April, 2017. In order to link financial transactions with the natural persons, it is proposed that the managing director, director, partner, trustee or any other competent to act on behalf of such entities shall also apply for PAN.

  Through this proposal, the Government is trying to bring in unorganised sector into tax net and make it more compliant. The same shall result into better transparency in transactions reporting to the Government. Changes effective from F.Y. 2017-18.

- **Tax parity in case of assesses operating heavy goods vehicle under presumptive taxation:** This amendment has been brought in order to bring in the tax rationality and parity between small and large transporters and to give more benefit to the small transporters, it is proposed that in case of transporter having heavy goods vehicle (more than 12MT gross vehicle weight), the income would be deemed as INR 1,000 per ton of gross vehicle or unladen weight per month (or part thereof) or amount actually earned by him whichever is higher. Vehicles other than heavy goods vehicle will continue to be taxed at existing presumptive rates. (INR 7,500 per Vehicle) Changes effective from F.Y. 2018-19

  As per earlier provisions, all the transporters having vehicles up to 10 were covered by presumptive taxation whereby heavy / light vehicles were not distinguished. Even though the profit margins of large capacity goods carriages are higher than small capacity goods carriages, the tax consequences were similar which is against the principle of tax equity. Hence, in order to bring taxation at par, it is proposed to fix income earned from heavy vehicles based on its weight.

- **CTT rationalised on commodity derivatives to help MCX, NCDEX:** Asper earlier provisions, if commodity transactions are traded on a recognised stock exchange which is subject to Commodity Transaction Tax (CTT) then the same was not considered as a speculative transaction. However, there was no clarity for commodity transactions which were exempt from CTT (agriculture commodities) even through traded to recognised stock exchange. In this budget, the above situation is squarely covered and proposed that the said transaction shall not be termed as "Speculative Transaction". Further, the CTT on devolvement of a commodity option-converting option to futures position has been kept at 0.0001% and not 0.125% prevalent on options that are exercised.
  The budget amends the provisions of commodity transaction tax for derivative transactions on agricultural commodity and now defines them as non-speculative transaction income. This would boost agri-commodity transactions in the derivative market.

- **Increase in list of deductions available only if return is filled within due dates:** As per existing provisions, all investment linked deductions (80IA, 80IAB, 80IB, 80IC, 80ID etc.) are admissible only if the assessee has filled return of income within due dates. In order to bring uniformity in all income-based deduction, it is now proposed that the said scope shall be extended to all similar deductions which are covered in heading "C.—Deductions in respect of certain incomes" in Chapter VIA **(sections 80 HH to 80RRB)**. The impact of such amendment shall be that no deduction would be allowed to a taxpayer under these provisions if income-tax return is not filled on or before the due date.

Direct Tax Proposals

Other Tax Reforms

(2/3)

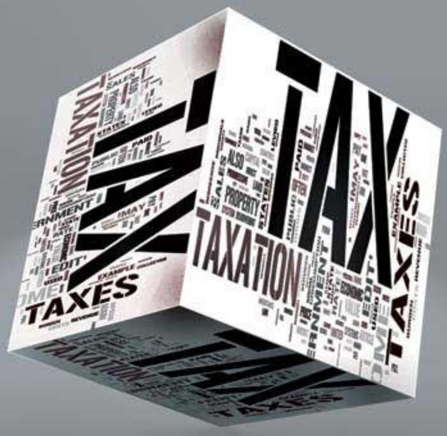
Only investment linked deductions (majorly applicable to person setting up new industry in a specific area or selecting a particular type of industry) falling under section 80HH to 80RRB are proposed to be covered. Traditional deductions like 80C, 80D and other such deductions are still available even if returns are not filled within due dates. Changes effective from F.Y. 2017-18.

- **Discretion in property valuation up to 5% below jantri rate:**The jantri rate is the minimum value at which sale or transfer of plots, built-up houses, apartments or commercial property can take place. Transaction in real estate attracts dual taxation under Capital gains (Section 50C) or business profits (Section 43CA) for the seller and Income from other sources (Section 56) for the receiver of the property (purchaser) <u>if the sale consideration is lower than the jantri rate</u>. Such a position could be created due to location and quality of land parcels in an area covered by such stamp duty rates. To reduce such hardship, it is proposed to provide no adjustments in the income if the difference between the stamp duty rates and sale consideration is not more than 5% of sale consideration.

- **Covering conversion of stock in trade into capital assets under tax ambit**: As per existingprovisions, tax incidence occurs wherein capital assets are converted into stock in trade. In order to provide symmetrical treatment and discourage the practice of deferring the tax payment or altering the classification for a mere tax benefit by converting the inventory into capital asset, it is proposed to amend the provisions in a manner 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. The fair market value (FMV) of the inventory on the date of conversion shall be deemed to be the full value of the consideration received.

  With the proposed amendments, any profit or gains arising from conversion of inventory into capital shall be chargeable to tax as business income in the year of conversion and actual transfer of such converted capital asset shall be chargeable to tax under the head Capital Gains in the year of transfer. The date of conversion shall be relevant for calculating the period of holding of capital asset and the fair market value of the stock in trade on the date of conversion shall be the cost of acquisition for the purposes of calculation of Long Term/Short Term capital gain on transfer of such converted capital asset.Changes effective from F.Y. 2018-19.

- **Transparency measures in Trust / Institutes:** Charitable or religious trusts/ institutions; universities or educational institutions and hospitals or other similar institutions which are covered under section 10(23C) shall be disallowed 30% of the expenditures incurred by them if they fail to deduct tax at source while making payments. In other words, section 40(a)(ia) which is applicable to businesses shall be made applicable to them.Also, if the total cash payments made to a person in a day exceed INR 10,000; then the entire of such cashexpenditure shall be disallowed. In other words, section 40A(3) and section 40A(3A) which isapplicable to businesses shall be made applicable to them.



Direct Tax Proposals

Other Tax Reforms

(3/3)

- **Amendments in relation to Income Computation Disclosure Standards (ICDS) – Applicable to all assessee – Changes effective from F.Y. 2016-17**

  - Allowing deduction in respect of marked to market loss or other expected loss as computed in accordance ICDS.

  - To consider foreign exchange gain/loss computed in accordance with ICDS as an income/loss, subject to provision of section 43A.

  - Computation of profit and gains from construction contracts or contract for providing services (except some service contracts) shall be made on the basis of percentage of completion method in accordance with ICDS. Contract revenue should include retention money, and project cost should not be reduced by incidental Interest, dividends or capital gain.

  - Valuation of inventory should be made at lower of actual cost or net realizable value computed in accordance with the ICDS.

  - Inclusive method for accounting i.e. value of purchase and sales should be determined including 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.

  - Inventory being listed securities, shall be valued at lower of actual cost or net realizable value as provided in ICDS (category wise valuation and then comparing lower of actual cost or net realizable value).

  - Inventory being securities not listed, or listed but not quoted, on a recognized stock exchange, shall be valued at actual cost initially recognized as provided in ICDS.

  - Interest received by assessee on compensation or enhanced compensation shall be taxable in year of receipt **(New provision)**.

  - Claim for escalation in contract price and export incentive should be recognized as income in year in which reasonable certainty of its realization is achieved **(New provision)**.

  - Subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee shall be taxable in year in which it is received by the assessee if not charged to income tax for any earlier previous year **(New provision)**. The premise in this regard is to align the tax treatment with new Accounting Standard requirements.

Direct Tax Proposals

International Taxation

(1/2)

Bringing more non-residents under tax net by widening the term - "business connection"

- International taxation mainly deals in allocation of taxing rights between the source and residence country. Business connection is a terminology similar to that of a permanent establishment in the tax treaties (DTAA), which through fulfilment of certain conditions, could hold activities of a non-resident to result in business in a country of source, thereby invoking source country to tax the profits made by such non-resident in a country of source.

- In short, business connection like permanent establishment is an essential criterion to tax business profits in the country of source. The scope of business connection is similar to Dependent Agent Permanent Establishment (DAPE), which has recently undergone changes initiated by the BEPS project and adopted in the form of Multilateral Agreements (MLI), which have ultimately increased the scope of Bilateral Tax Treaties that India has concluded with treaty partners.

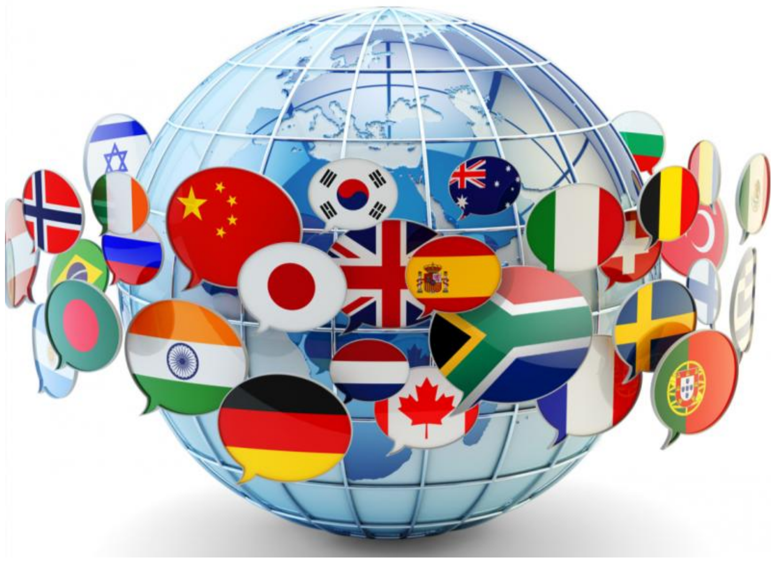
- The change in treaties now hold that an agent necessarily does not have to conclude contract but could play a principal role in concluding contracts, and this could be a substantial condition to hold such dependent agent as a Permanent Establishment in the country of source. Such a change to the tax treaties made the domestic legislation more favourable, thereby leaving a possibility that a taxpayer may choose domestic legislation to circumvent such treaty provision. Keeping this in mind, Section 9 has been amended to make suitable modifications to the definition of business connection to include such principal role in conclusion of contracts by an agent.

- It is further proposed that the contracts should be (i) in the name of the non-resident (ii) for the transfer of the ownership of, or for the granting of rights to use, property owned by the non –resident or that the non –resident has the right to use or (ii) for the provisions of services by that non-resident.

*To conclude that anon-resident is having a permanent establishment in India or not majorly emphasised on a condition that the agent in India is able to conclude contract on behalf of a non-resident or not. As per the proposed amendment, there will paradigm shift in determination of permanent establishment as even playing **"habitually principalrole"** by an agent of a non-resident will allow the tax department to include global income of the non-resident under the Indian tax net.Through this amendment, the sole intention of the Government is to bring more and more non-residents under Indian tax environment. Changes are effective from F.Y. 2018-19.*

Significant Economic Presence – Creating digital Permanent Establishment (PE) in India

- Taxation of a business in country of source could be only though establishment of business connection or through a permanent establishment. Both the concepts use a nexus approach based on physical presence. However due to advent of technology, physical presence does not hold good anymore and this could lead to base erosion of taxes for the source country. As per Action Plan 1 of the BEPS project on Digital Economy, a new nexus approach is proposed in the form of Significant Economic Presence test based on the factors that have a purposeful and sustained interaction with the economy by the aid of technology and other automated tools.



- Therefore, it is proposed to include Significant economic presence as a business connection and it 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.

- Such a test would be applicable from F.Y. 2018-19.

After promoting digital economy in India, the Government realized that non-residents were taking undue advantage of the current rules related to determination of PE which is based on their physical presence only. Hence, in order to make international transactions more transparent, it is proposed to introduce rules related to significant economic presence which will create digital PE in India.

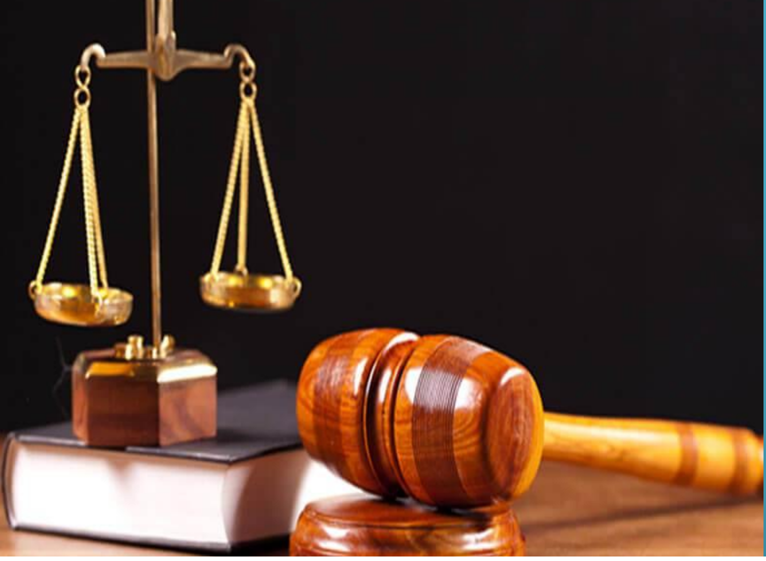
Country-by-Country-Report (CbCR) reporting norms relaxed – Applicable to International Group

- Income tax 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 the model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organisation 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:

    - 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 12 months from the end of reporting accounting year.*(CbCR reporting for F.Y 2016-17 should be done on or before 31st March, 2018)*

    - 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. Time period to file CBCR report is the same as given above i.e. within 12 months from the end of reporting accounting period.*(CbCR reporting for F.Y 2016-17 should be done on or before 31st March, 2018)*

The government has given some relaxation, mainly procedural, for MNCs that operate in India and are required to maintain and furnish transfer pricing documentation in the Country-by-Country report (CbCR). All cross-border transactions between group companies have to be valued at an arm's length, or as if the transaction is with an unrelated company, to ensure that MNCs do not use transfer prices to shift profits to low-tax countries. MNCs will now get 12 monthsinstead of 8 months. Changes are applicable from F.Y. 2016-17.



Direct Tax Proposals

Assessment Proceedings (1/2)

E-Assessments:

- Under the existing I. Tax provisions, the assessments are being done manually wherein it requires constant involvement of judicial authorities at various stages along with assessee in order to close the assessments.
- The government had introduced e-assessment on trial basis in 2016 with the aim to bring in greater transparency and accountability.
- The aim of e-assessment is to minimize the interface between the IT department and the taxpayers.
- Now assessments will be done in electronic mode which will almost eliminate person to person contact leading to greater efficiency and transparency. However, the Government will prescribe the provisions of E-Assessment separately along with applicability date in this regard.

No addition to income tax return by AO:

- The existing provisions enable adjustments in form of addition of income that can be made in case of discrepancies in 26AS or Form 16A or Form 16 while computing the total income of the assessee.
- Now as per the amendment proposed, no adjustment can be made while processing returns by CPC by way of addition of income considering Form 26AS or Form 16A or Form 16.This amendment is effective from F.Y. 2017-18.

Appeal by Accountants / Merchant Bankers / Valuers':

- In the earlier provision the AO or Commissioner (Appeals) may direct the accountant or merchant banker or registered valuer to pay the amount by way of penalty a sum of ten thousand rupees for furnishing incorrect information in reports or certificates.
- There was no provision regarding challenging the order passed by AO or Commissioner (Appeals).
- Now, the accountant or merchant banker or registered valuer can appeal before the Appellate Tribunal against the said orders.This amendment is effectivefrom F.Y. 2018-19.

Prosecution for failure to furnish income tax return in case of Shell companies:

- Section 276CC provides for imprisonment in case of failure to file the return of income. Section 276CC is attracted for any of the following defaults by the taxpayer:

    a) Failure to file the return of income.
    b) Failure to file the return of income in response to a notice issued by tax authorities.

Direct Tax Proposals

Assessment Proceedings (2/2)

- However, the taxpayer shall not be proceeded against under this section, if:
  a) The return is furnished by him before the expiry of the relevant assessment year; or
  b) The tax payable by him on the total income determined on regular assessment, as returned by advance tax and TDS, if any, does not exceed INR 3,000.
- The taxpayer for the above purpose included all Assesses including Companies or Corporate assesses.
- *Now, in order to prevent abuse of the said proviso by shell companies, it is proposed to eliminate "companies" from the category of assesses. Hence, now it becomes mandatory for companies to file the return of income ignoring the threshold given to other assesses.* This amendment is effectivefrom F.Y. 2018-19.

The penalty for failure to furnish Statement of Financial Transaction (SFT)

- The penalty for failure to furnish SFT is enhanced as under.

A) From INR 100 per day to INR 500 per day for which the default continues.
B) From INR 500 per day to INR 1000 per day during which default continues even after receiving relevant notice ofnon-submission from the concerned government department.

Indirect Tax Proposals

Customs (1/4)

- With the roll out of GST, the name of Central Board of Excise and Customs [CBEC] replaced to **Central Board of Indirect Taxes and Customs (CBIC).**
- Additional duty of customs as well as additional duty of excise on motor spirit and high speed diesel oil is abolished.
- The Education Cess and Secondary and Higher Education Cess on imported goods has been abolished, and in its place Social Welfare Surcharge is imposed at the rate of 10% of the aggregate duties of Customs on imported goods to provide for social welfare schemes of the Government. Goods which were hitherto exempt from Education Cess on imported goods will however be exempt from this Surcharge.
- Road cess of INR 6 per litre on petroleum products abolished.
- Road and Infrastructure cess on petroleum products of INR 8 per litre introduced.
- Provision has been made to exempt goods imported for repairs, further processing of manufacture from payment of customs duty introduced. Similar provisions inserted for re-import of exported goods as well.
- Provision of electronic cash ledger which would enable advance deposit of duties, taxes, fees. Interest and penalty.
- Provisions inserted regarding reciprocal arrangement for exchange of information between India and any other country in connection with specified custom matters. Information received can be used as evidence in investigation and proceeding under the act.
- Time for pronouncing Advance Ruling reduced to 3 months from 6 months.

Indirect Tax Proposals

Customs (2/4)

Levy of Social Welfare Surcharge, as a duty of Customs on imported goods

Sr. No	Heading, sub-heading tariff item	Description	From (Present)	To (Proposed)
1	Any chapter	Levy of Social Welfare Surcharge on imported goods to finance education, housing and social security	--	10% of aggregate duties of customs
2	Any chapter	Abolition of Education Cess and Secondary and Higher Education Cess on imported goods	3% of aggregate duties of customs [2% + 1%]	Nil
3	2710	Motor spirit commonly known as petrol and high speed diesel oil	--	3% of 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 aggregate duties of customs
5	7108	Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form	--	3% of aggregate duties of customs
6	Any Chapter	Specified goods hitherto exempt from Education Cess and Secondary and Higher Education Cess on imported goods	--	Nil

Changes in Excise Duty Rates

S. No.	Description	From (Present)	To (Proposed)
1	Unbranded petrol	INR 6.48 per litre	INR 4.48 per litre
2	Branded petrol	INR 7.66 per litre	INR 5.66 per litre
3	Unbranded diesel	INR 8.33 per litre	INR 6.33 per litre
4	Branded diesel	INR 10.69 per litre	INR 8.69 per litre

Indirect Tax Proposals

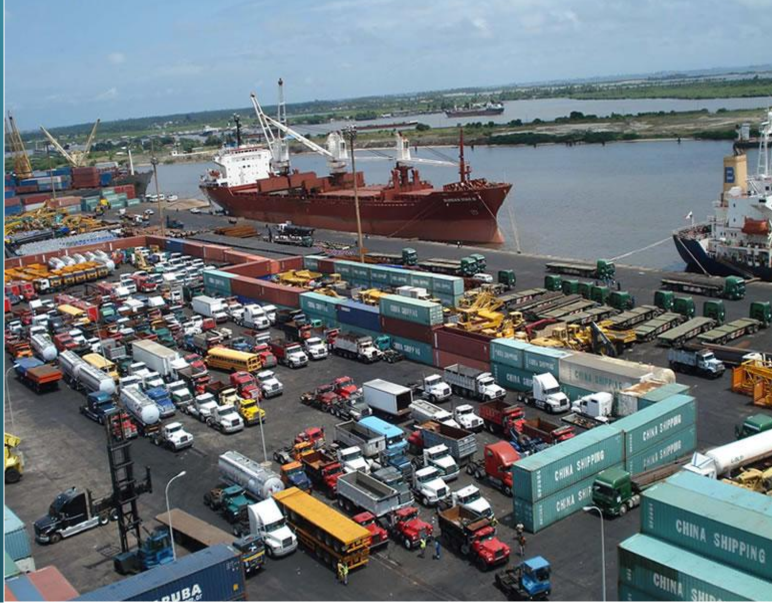
Customs (3/4)

Schedule showing major rate changes in Basic Customs Duty Rate

Description	BCD Rate (Current)	BCD Rate (Proposed)
Food Processing		
Cashew nuts in shell(Raw cashew)	5%	2.5%
Fruit Juices and vegetable juices	30%	50%
Cranberry juice	10%	50%
Orange fruit juice	30%	35%
Miscellaneous food preparations(Other than soya protein)	30%	50%
Edible Oils of Vegetable Origin		
Crude edible vegetable oils	12.5%	30%
Refined edible vegetable oils	20%	35%
Diamonds and precious stones		
Cut and polished colored gemstones	2.5%	5%
Diamonds including lab grown diamonds-semi processed half cut or broken Non industrial diamonds including lab grown diamonds(Other than rough diamonds)	2.5%	5%

Indirect Tax Proposals

Custom (4/4)



Description	BCD Rate (Current)	BCD Rate (Proposed)
Footwear		
Footwear	10%	20%
Parts of footwear	10%	15%
Jewellery		
Imitation Jewellery	15%	20%
Electronics Products		
Cellular mobile phones	15%	20%
Specified parts and accessories including lithium ion battery of cellular mobile phones	7.5%/10%	15%
LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5%/10%	15%
Video Games	10%	20%
Watches and Clocks		
Wrist watches, pocket watches and other watches, including stop watches	10%	20%
Clocks with watch movements	10%	20%
Other clocks, including alarm clocks	10%	20%
Miscellaneous items		
Candles, tapers and the like	10%	25%
Kites	10%	20%
Sunglasses	10%	20%
Furniture	10%	20%
Imitation Jewellery	15%	20%
Electrodes of a kind used for furnances (Export duty unchanged)	NIL	20%
Lithium-ion batteries	10%	20%
Medical devices	7.5%	10%
Date, sealing or numbering stamps, and the like	10%	20%
Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks.	10%	20%
Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetic or toilet preparations.	10%	20%