

Budget 2017 – Important Tax Implications on Saturday,
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Corporate Taxation

Corporate tax rate card

Corporate tax rate

- Proposed to be reduced to 25% for domestic company whose total turnover or gross receipts does not exceed INR 500 million during FY 2015-16
- Tax rate remains unchanged for other domestic companies (including manufacturing companies satisfying prescribed conditions), LLP's and foreign companies
- No change in DDT rates – Effective DDT rate of 20.36% continues

Corporate Taxation

Corporate tax rate card

	Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate
Domestic with turnover not exceeding INR 500 million in FY 2015-16	Nil (Nil)	25.75% (30.90%)	7% (7%)	27.55% (33.06%)	12% (12%)	28.84% (34.61%)
New domestic manufacturing*	Nil (Nil)	25.75% (25.75%)	7% (7%)	27.55% (27.55%)	12% (12%)	28.84% (28.84%)
Other domestic	Nil (Nil)	30.90% (30.90%)	7% (7%)	33.06% (33.06%)	12% (12%)	34.61% (34.61%)
Foreign	Nil (Nil)	41.20% (41.20%)	2% (2%)	42.02% (42.02%)	5% (5%)	43.26% (43.26%)

*Compliant with prescribed conditions under section 115BA

Note:

Education cess of 3% has been considered for determining the tax rates above
Figures in bracket represent existing tax rates

Corporate Taxation

Minimum alternate tax

No change in MAT rates

Types of companies	Existing		Proposed		Proposed	
	Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate
Domestic	Nil	19.05%	7%	20.39%	12%	21.34%
	(Nil)	(19.05%)	(7%)	(20.39%)	(12%)	(21.34%)
Foreign	Nil	19.05%	2%	19.44%	5%	20.01%
	(Nil)	(19.05%)	(2%)	(19.44%)	(5%)	(20.01%)
IFSC	Nil	9.27%	7%	9.92%	12%	10.38%
	(Nil)	(9.27%)	(7%)	(9.92%)	(12%)	(10.38%)

Note:

Education cess of 3% has been considered for determining the tax rates above

Figures in bracket represent existing tax rates

Corporate Taxation

Corporate tax rate card

Illustration

	Income > INR 100 million	Income > INR 100 million	Income > INR 10 million
Income	100	100	100
Less: tax	28.84	34.61	34.61
Net distributable income	71.16	65.39	65.39
Less: DDT at the rate of 20.36%	12.04	11.06	-
Net amounts distributed to shareholder/ partner	59.12	54.33	65.39
Effective tax rate	40.88	45.67	34.61

Note:

Education cess of 3% has been considered for determining the tax rates above

International Tax

Limit on interest deductions (1)

- It is proposed to limit interest deduction in certain cases – in line with recommendation of OECD BEPS Action Plan 4
- It is proposed to restrict deduction of interest expense or similar consideration paid or payable by an entity to its AE to 30% of its EBITDA
- Provision applicable to an Indian company, or a PE of a foreign company in India, being the borrower, who pays interest or similar consideration in respect of any debt issued by a non-resident AE
- Restriction applicable where interest or similar consideration to its AE exceeds INR 10 million
- Debt shall be deemed to be treated as issued by an AE where it provides an implicit or explicit guarantee to a non-AE lender or deposits a corresponding and matching amount of funds with the non-AE lender
- Restriction not to apply to Indian company or PE of a foreign company which is engaged in the business of banking or insurance

International Tax

Limit on interest deductions (2)

- Disallowed interest expense shall be carried forward upto 8 assessment years immediately succeeding the assessment year for which the disallowance is first made
 - Deduction in subsequent assessment year will be subject to same restrictions
- The term 'debt' has been defined to mean any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession"

International Tax

Limit on interest deductions (3)

Illustration

Amount in millions

Particulars	Year 1	Year 2
EBITDA	2,000	3,000
Interest expenditure to AE	700	700
Maximum interest deduction allowable (30% of EBITDA)	600	900
Interest allowed in computation of income*	600	800 (700+100)
Interest disallowed & carried forward	100	-

Presuming interest is deductible in computation of income chargeable to tax under the head 'profits and gains of business and profession'

International Tax

Withholding tax on interest and taxation of capital gains

Interest on foreign currency borrowings

- Currently, concessional rate of 5% is applicable on interest payable on borrowings made before 1 July 2017
- Eligible period for the concessional rate proposed to be extended in respect of borrowings made before 1 July 2020
- Concessional rate extended to interest on rupee denominated bond issued outside India (to give effect to Press Release dated 29 October 2015)
 - Proposed amendment is effective from 1 April 2015

Interest payable to FIIs and QFIs

- Currently, concessional rate of 5% is applicable on interest payable before 1 July 2017 in respect of a rupee denominated bond of an Indian company or a Government Security
- Eligible period for the concessional rate proposed to be extended to interest payable before 1 July 2020

Exemption from capital gains on Rupee Denominated Bond

- It is proposed that any transfer of a capital asset outside India, being rupee denominated bond of Indian company issued outside India, by a non-resident to another non-resident shall not be regarded as transfer
- It is proposed that relief available to primary subscribers in respect of capital gains arising at the time of redemption of rupee denominated bond on account of appreciation of rupee be also extended to secondary holders

International Tax

Amendment to sections 90 and 90A

- It is proposed to insert Explanation 4 to sections 90 and 90A of the Act which provides that if any term used in the DTA entered by India with any countries or specified associations and:
 - the said term is defined under the DTA, the said term shall have the same meaning as provided in the DTA
 - where the term is not defined in the DTA but it is defined in the Act, it shall have same meaning as defined in the Act and any explanation issued by the central government

International Tax

Credit for foreign tax paid in cases of dispute

- The Finance Act, 2015 inserted provisions to provide that CBDT can frame rules regarding the procedure for granting FTC against taxes payable in India
- In exercise of powers conferred by the Act, CBDT had inserted Rule 128 of The Income-tax Rules, 1962 vide Notification No. 54 of 2016 dated July 27, 2016
 - This Rule dealt with the manner of computation of FTC
- The Rule clarified that a credit in respect of disputed tax will be allowed for the year in which such income is offered to tax or assessed to tax in India, if the assessee within six months from the end of the month in which the dispute is finally settled, furnishes the following:
 1. evidence of settlement of dispute,
 2. evidence of discharge of such disputed foreign tax, and
 3. an undertaking that no refund in respect of such amount has directly or indirectly been claimed or shall be claimed
- Enabling provisions to give effect to the above are proposed to be introduced

Corporate Taxation

Deduction to SEZ units (1)

- Deduction under section 10AA is allowed in computing the total income of an assessee in respect of profit and gains from SEZ unit, subject to fulfilment of certain conditions
- There has been a controversy as to whether the deduction is available from the total income of the undertaking or from the total income of the assessee
- Courts on various occasions, including the Supreme Court in the case of Yokogawa India Ltd. in respect of a similar issue with respect to section 10A, have taken a view that such deduction is to be allowed at the stage of computing the gross total income of the undertaking and not at the stage of computation of total income
- It is now proposed to clarify that -
 - the amount of deduction shall be allowed from the total income of the assessee before giving effect to the provisions of section 10AA; and
 - the deduction in no case shall exceed the said total income

Corporate Taxation

Deduction to SEZ units (2)

Illustration

Particulars	Existing position (as upheld by Courts)		As per proposed amendment	
	Amount (INR Million)	Amount (INR Million)	Amount (INR Million)	Amount (INR Million)
SEZ Unit (eligible for 100% deduction)				
Profit	100			100
Less : Deduction under section 10AA	100	Nil		
Non-SEZ Unit		(60)		(60)
Gross Total Income		(60)		40
Less : Deduction under Chapter VIA		-		-
Total Income		(60)		40
Less : Deduction u/s 10AA		-		(40)

Corporate Taxation

MAT and AMT credit pertaining to FTC

- It is proposed that when FTC allowed against MAT/ AMT liability exceeds FTC allowable against tax payable under normal provisions, such excess would be ignored while computing credit under section 115JAA or section 115JD
- This is in line with rule 128(7) of Income-tax Rules, 1962

Illustration

Amount in INR

Particulars	Existing provisions	Proposed provisions
Tax under normal provisions (A)	Nil	Nil
Tax under MAT (B)	20	20
Tax paid in foreign country	40	40
Tax liability for the year (as tax under MAT higher than tax under normal provisions)	20	20
FTC utilised for MAT liability (C)	20	20
FTC against tax payable under normal provisions (D)	Nil	Nil
MAT credit allowed as per section 115JAA	20 (B-A)	Nil [(B-A)-(C-D)]

Corporate Taxation

Rationalisation of MAT provisions in line with IndAS (1)

Pursuant to applicability of Indian Accounting Standards [Ind AS] to specified companies from financial year 2016-17, the Minimum Alternate Tax [MAT] provisions are proposed to be amended retrospectively from assessment year 2017-18

The broad framework for aligning Ind AS compliant financial statements with MAT which is computed on book profits is as under:

- Net profits before other comprehensive income [OCI] to be considered as the broad starting point for MAT
- Normal adjustments in computation of MAT as prescribed to be done
- Prescribed adjustments to be made in relation to demergers

Corporate Taxation

Rationalisation of MAT provisions in line with IndAS (2)

- OCI items that will permanently be recorded in reserves (i.e. never be reclassified to statement of profit and loss) to be included in book profits for MAT

as under:
Items

Point of time of inclusion
(annual)

Point of time of inclusion
(transition)

Changes in revaluation surplus
of assets

Realisation/disposal/
retirement/transfer

Realisation/disposal/
retirement/transfer

Gains and losses from
investments in equity
instruments designated at
fair value through OCI

Realisation/disposal/
retirement/transfer

Realisation/disposal/
retirement/transfer

Remeasurements of defined
benefit plans

Every year, as the gains and
losses arise

Equally over a period of five
years starting from the year of
first time adoption of Ind AS

Any other item

Every year, as the gains and
losses arise

Equally over a period of five
years starting from the year of
first time adoption of Ind AS

Corporate Taxation

Rationalisation of MAT provisions in line with IndAS (3)

- Transitional adjustments recorded in Reserves and Surplus, excluding Capital Reserve and Securities Premium Reserve, (i.e. never be reclassified to statement of profit and loss) to be included in book profits for MAT as under:

Items	Point of time of inclusion (annual)
Assets at fair value as deemed cost	Revaluation impact and all corresponding adjustments to be ignored – appropriate adjustments to be made in year of retirement/disposal/realisation/transfer
Investments in subsidiaries, JVs and associates at fair value as deemed cost	Realisation of investment
Cumulative translation differences	Disposal of foreign operations
Any other item	Equally over a period of five years starting from the year of first time adoption of Ind AS

- It has been clarified in the Memorandum to the Finance Bill, 2017 that deferred tax adjustments recorded in Reserves and Surplus on account of transition to be ignored

Corporate Taxation

Changes in withholding tax rates

Section	Particulars	Existing Rate	Proposed Rate	Effective from
194J	Fees for professional or technical services	10%	2% for recipients engaged only in the business of operation of call centre	1 June 2017
194LA	Payment of compensation on acquisition of certain immovable property	10%	Nil – where the payment is exempt from levy of income-tax under the RFCTLARR Act	1 April 2017

Corporate Taxation

Extension of period to claim deduction by start-ups

- Currently, eligible start ups can claim 100% deduction of profits and gain for eligible business for 3 consecutive assessment years out of 5 years beginning from the year of incorporation
- It is proposed to extend the said period to 3 consecutive assessment years out of 7 years beginning from the year of incorporation

- "eligible business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property
- "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—
 - a) it is incorporated on or after the 1 April 2016 but before the 1 April 2019;
 - b) the total turnover of its business does not exceed INR 250 million in any of the previous years beginning on or after the 1 April 2016 and ending on the 31 March 2021; and
 - c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government

Corporate Taxation

Relaxation of conditions for tax holiday to promote affordable housing

- Currently, 100% deduction can be claimed in respect of profits and gains derived from developing and building certain housing projects subject to fulfillment of specified conditions
- It is proposed to relax the specified conditions as under:
 - Size of residential unit to be measured using “carpet area” as against “built-up area”
 - Restriction of 30 square meters on the size of residential units not to apply to the places located within 25 kms from the municipal limits of Chennai, Delhi, Kolkata and Mumbai
 - Time limit for project completion to be extended to 5 years from 3 years

As per the Real Estate (Regulation and Development) Act, 2016, “carpet area” means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment

Corporate Taxation

Other provisions

Taxation of carbon credits

- It is proposed to tax income by way of transfer of carbon credit at the rate of 10% (plus applicable surcharge and education cess) on gross basis

MAT and AMT credit

- It is proposed to extend the time period for carry forward of MAT and AMT credit from existing 10 assessment years to 15 assessment years

Exemption for house property held as stock in trade

- It is proposed to introduce a new provision to exempt notional income from house property held as stock in trade, where the property or any part is not let out during the whole or part of the year
- The exemption to be provided only for the period upto one year from the end of the financial year in which certificate of completion of construction of the property is obtained from the competent authority

Corporate Taxation

Determination of actual cost of asset in case of withdrawal of investment linked deduction for capital expenditure

- Currently, in case an asset (for which a investment linked deduction is already allowed) is used in a year for purposes other than specified purposes, then the deduction is withdrawn and deemed to be income of such year (net of normal depreciation)
- It is now proposed to clarify that the actual cost of asset in such cases shall be as under:

Particulars	Amount
The actual cost of capital assets	XXX
Less: An amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition	XXX

Corporate Taxation

Measures to discourage cash transactions

Actual cost of asset for depreciation

- It is proposed to provide that any expenditure incurred on acquisition of any asset shall be ignored for the purpose of determination of actual cost if payment(s) exceeding INR 10,000 is made in a day otherwise than by an account payee cheque/ draft or use of ECS through a bank account

Investment linked capital expenditure under section 35AD

- It is proposed to provide that capital expenditure in respect of specified business shall exclude any expenditure for which the payment(s) exceeding INR 10,000 is made in a day otherwise than by an account payee cheque/draft or use of ECS through a bank account

Threshold for allowance of cash payments

- It is proposed to
 - reduce the present threshold of cash payments to a person in a single day from INR 20,000 to INR 10,000
 - reduce the existing threshold of INR 20,000 to INR 10,000 for expenditure claimed in a year, but cash payments made in any subsequent year
 - expand the specified mode of payment to include use of ECS through a bank account

Corporate Taxation

Increase in deduction limit for provision for NPAs

- Currently, deduction is provided to certain banks in respect of provision for bad and doubtful debts upto 7.5% of the total income
- It is proposed to enhance the amount of deduction available to 8.5% of the amount of total income

Corporate Taxation

Provisions in relation to Co-operative Banks

- Currently, certain categories of interest on bad and doubtful debts received by certain banks and financial institutions are liable to tax on receipt basis
- It is proposed to extend the aforesaid benefit to co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank
- It also proposed to allow deduction for any such interest payable only if it is actually paid on or before the due date of furnishing the return of income or in the year of payment

Transfer of listed equity shares

Additional condition for availing exemption

Currently, long term capital gains arising from transfer of listed equity shares is exempt where

- Transfer of shares is on or after 1 October 2004; and
- The transaction is subject to securities transaction tax

It is proposed that the aforesaid exemption would not be available if:

- If the transaction of acquisition of equity shares is entered into on or after 1 October 2004; and
- such acquisition is not chargeable to securities transaction tax

Certain acquisitions to be notified by the Central government to be excluded

Transfer of unquoted shares

Full value of sale consideration

- Currently, there are anti abuse provisions in case of transfer of immovable property at a price less than stamp duty
- Similar provision has been inserted with respect to transfer of shares of a company (other than quoted share) for consideration less than the Fair Market Value (FMV)
- In such an event the FMV of the shares transferred to be deemed to be the full value of consideration for computing capital gains
- FMV for this purpose to be determined in accordance with the manner to be prescribed
- Quoted share is defined to mean share quoted on any recognised stock exchange and traded regularly

Issues that may arise

- Such transfer may also be taxed in the hands of the acquirer as Income from other sources notwithstanding the capital gains paid by the seller
- Whether the provision to cover listed shares though not traded regularly and how to determine the trading regularity for such shares

Transfer of shares of private company

Clarification

IT Act provides for concessional tax rate of 10% for long term capital gains arising to a non-resident shareholder from transfer of unlisted securities

- The concessional rate was applicable from 1 April 2012
- There was an uncertainty as to whether the concessional rate of tax is applicable to the transfer of share of a closely held company
- Finance Act, 2016 amended the provision to provide that the concessional rate is also applicable to transfer of shares of a closely held company
- The aforesaid amendment was applicable from 1 April 2016
- Accordingly, the uncertainty remained about the applicability of the amendment in the intervening period

It is proposed now that:

- The concessional rate of tax would also be applicable for closely held company during the intervening period
- The proposed amendment will be effective from 1 April 2012

Widening scope of income from other sources (1/2)

Currently following is taxed as income from other sources:

- For an Individual or HUF receiving any sum of money or property without consideration or inadequate consideration (exceeding INR50,000)
- For a firm and closely held entity receiving shares of a company in which public is not substantially interested without consideration or inadequate consideration (exceeding INR50,000)

The applicability of above provisions has been limited till 31 March 2017 and it is proposed that any receipt of sum of money and/or property (exceeding INR50,000) by all assesses would be taxable as income from other sources

- Property to have same meaning as the present provision (i.e. immovable property, shares, jewellery, paintings etc.)

Widening scope of income from other sources (2/2)

Following transactions are also excluded from its applicability:

- Distribution on partition of HUF
- Transfer of capital asset in a scheme of amalgamation and demerger
- Transfer or issue of shares pursuant to a amalgamation or demerger to the shareholder
- Transfer of shares of Indian company pursuant to amalgamation or demerger of foreign companies
- Transfer of capital asset in a scheme of amalgamation of a banking company with a banking institution
- Business organization by co-operative bank

The cost of acquisition of property (for the purpose of computing capital gains on future disposal) covered under this provision would be the same value which is considered as income from other sources under this provision

Conversion of preference shares to equity shares

Tax neutrality

- Currently, conversion of bond or debenture of a company into shares of that company is not regarded as transfer
- However, no similar tax exemption was available in case of conversion of preference shares of a company into its equity shares
- It is proposed that the conversion of preference share of a company into equity share of that company will not be regarded as transfer
- In determining the period of holding of such equity shares, the period of holding of the preference shares shall be included
- The cost of acquisition of the converted equity shares shall be deemed to be the cost of acquisition of preference share

Base year for capital gains computation

Base year to be shifted from 1981 to 2001 for computation of capital gains

- Currently, the IT Act provides that in case an asset is acquired before 1 April 1981, the tax payer has an option to take either fair market value of the asset as on 1 April 1981 or the actual cost of the asset as cost of acquisition
- It is proposed to shift the base year for indexation purposes to 1 April 2001
- Further, it is proposed that cost of acquisition of an asset acquired before 1 April 2001 shall be allowed to be taken as fair market value as on 1 April 2001

Transfer of shares of Indian co pursuant to foreign demerger

Cost of acquisition in the hands of transferee

- Currently, transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as transfer subject to prescribed conditions
- There was no provision in the IT Act providing for cost of acquisition of shares of Indian company in the hands of resulting foreign company
- It is proposed to provide that cost of acquisition of the shares of Indian company in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company
- Consequentially, the period of holding would also be available in the hands of resulting foreign company

Indirect transfer provisions in case of investors in FPIs

Exemption from applicability of indirect transfer provisions

- The indirect transfer provisions were introduced by Finance Act, 2012 with retrospective effect from 1 April 1961
- Subsequently, Foreign Portfolio Investors ('FPIs') raised concern that there should be a specific exemption for investors in FPI from applicability of indirect transfer provisions as the same may lead to double or multiple taxation
- Recently, the Central Board of Direct Taxes ('CBDT') released a circular clarifying that investors in FPIs would fall under the purview of indirect transfer provisions. However, the same was later kept in abeyance
- It is proposed to clarify that provisions of indirect transfer shall not apply to any non-resident investor in a Foreign Institutional Investor registered as Category-I or Category II FPIs
- No exemption has been provided to Category III FPI
- The proposed amendment will take effect from 1 April 2011

Carry forward of losses

Benefit to start-ups for set off and carry forward of loss

Currently the benefit of carried forward and set off of loss in a previous year is not be available to a closely held company in case there is a change in beneficial shareholding (carrying voting power) by more than 49%.

To stimulate growth of start-ups, the above restriction has been relaxed for a closely held company *being an eligible start-ups*. Such start-ups shall be allowed to carry forward and set off their losses in a previous year provided:

- **All the shareholders** holding shares carrying voting power as on the last day of the previous year in which such loss was incurred **should continue to hold those shares** on the last day of the year of carry forward of such loss; and
- Such losses are incurred during the first 7 years from the year of incorporation

Tax incentive for development of Andhra Pradesh

Exemption of capital gains

- In order to form the new capital city of Amaravati, Government of Andhra Pradesh introduced a Land Pooling Scheme wherein land owners transfer their land or building and receive compensation in the form of reconstituted plot or land. In the meantime, Land Pooling Ownership Certificates (LPOCs) are issued to such land owners in lieu of land transferred
- It is proposed to introduce exemption from capital gains arising to an individual or HUF who was the owner of such land as on 2 June 2014 on following transfers:
 - Transfer of land or building under land pooling scheme
 - Sale of LPOCs
 - Sale of reconstituted plot or land within two years from the end of the financial year in which the possession was handed over
- The proposed amendment will take effect from 1 April 2014
- In case of sale of reconstituted plot or land after the expiry of two years, the cost of acquisition of such plot or land shall be deemed to be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over. This amendment will take effect prospectively

Joint development agreement

Computation of capital gains

- In case of joint development agreements, the year of taxability of capital gains has been a matter of litigation
- It has been now proposed that in case of individual or HUF entering into the JDA, capital gains would be chargeable in the previous year in which the certificate of completion is issued by the competent authority
- Full value of consideration in this case will be stamp duty value of his share in the project on the date of issuance of the said certificate as increased by any monetary consideration received
- Such benefit would not be available in case such assessee transfers his share in the project on or before the date of issue of said certificate. In this case, capital gains will be taxed in the year of transfer as per the general provisions
- Further, an amendment has been proposed to withhold tax at the rate of 10% from the monetary consideration payable to a resident
- Cost of acquisition of the share in the project in the hands of the land owner shall be the amount which is deemed as full value of consideration, i.e. stamp duty value

Other amendments

Period of holding of immovable property

- It is proposed to reduce the period of holding in case of immovable property, being land or building or both, from 36 months to 24 months to qualify as long term capital assets

Consolidation of 'plans' within a 'scheme' of mutual fund

- Finance Act, 2016 provided that any transfer of units held by a unit holder in the consolidating plan of a mutual fund scheme, in consideration of the units allotted in the consolidated plan of that scheme will be exempt from tax
- It is proposed that cost of acquisition of the units in the consolidated plan shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan shall include the period of holding for which the units in consolidating plan of mutual fund scheme were held
- The proposed amendment will take effect from 1 April 2016

Other amendments

Expanding the scope of long term bonds under section 54EC

- Currently long term capital gain to the extent of INR 5 million is exempt on investing such gain in the bonds issued by National Highways Authority of India or by the Rural Electrification Corporation Limited.
- Such exemption is now proposed to be extended to any bond redeemable after 3 years (notified by Central Government in this behalf)

Transfer pricing

Specified domestic transaction

Regulations for specified domestic transaction rationalized

- Definition of specified domestic transaction has been relaxed to exclude expenditure in respect of which payment has been made or to be made to certain specified persons
- This change will be effective from 1 April 2017 and will apply for AY 2017-18 and onwards
- However, transfer pricing regulations in respect of transactions between related parties enjoying specified profit linked deductions, will continue to apply

This will reduce compliance burden of the taxpayers

Transfer pricing

Introduction of secondary adjustment

Introduction of secondary adjustment in the Transfer Pricing regulations

- "Secondary adjustment" is an adjustment in the books of accounts of the taxpayer and its AE to align the actual allocation of profits between the taxpayer and its AE, with those determined based on the application of arm's length principle, thereby removing the imbalance between cash account and actual profit of the taxpayer

This will align actual profit allocation (consistent with the arm's length principle) with cash account of the taxpayer

Transfer pricing

Introduction of secondary adjustment

- Every taxpayer shall be required to carry out a secondary adjustment in case a primary adjustment to transfer price has been made:
 - By means of a suo-motu adjustment carried out by the taxpayer in its return of income
 - By the Assessing Officer and subsequently accepted by the taxpayer
 - Pursuant to an agreement reached in an Advance Pricing Agreement
 - In conformity to the margins/ rates as prescribed by the Safe Harbour Rules
 - Pursuant to a Mutual Agreement Procedure resolution
- The excess money available with the AE consequent to the primary adjustment, if not repatriated to India within the prescribed time, shall be deemed to be an advance made by the taxpayer, requiring imputation of interest income, as may be prescribed

Transfer pricing

Introduction of secondary adjustment

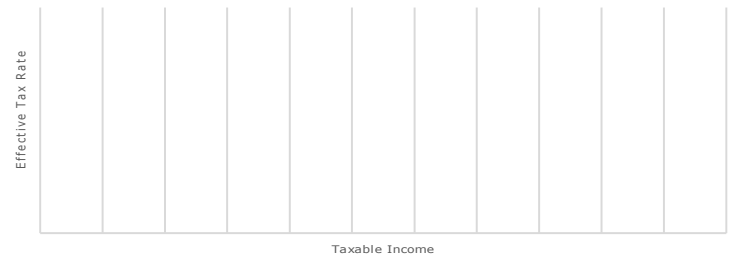
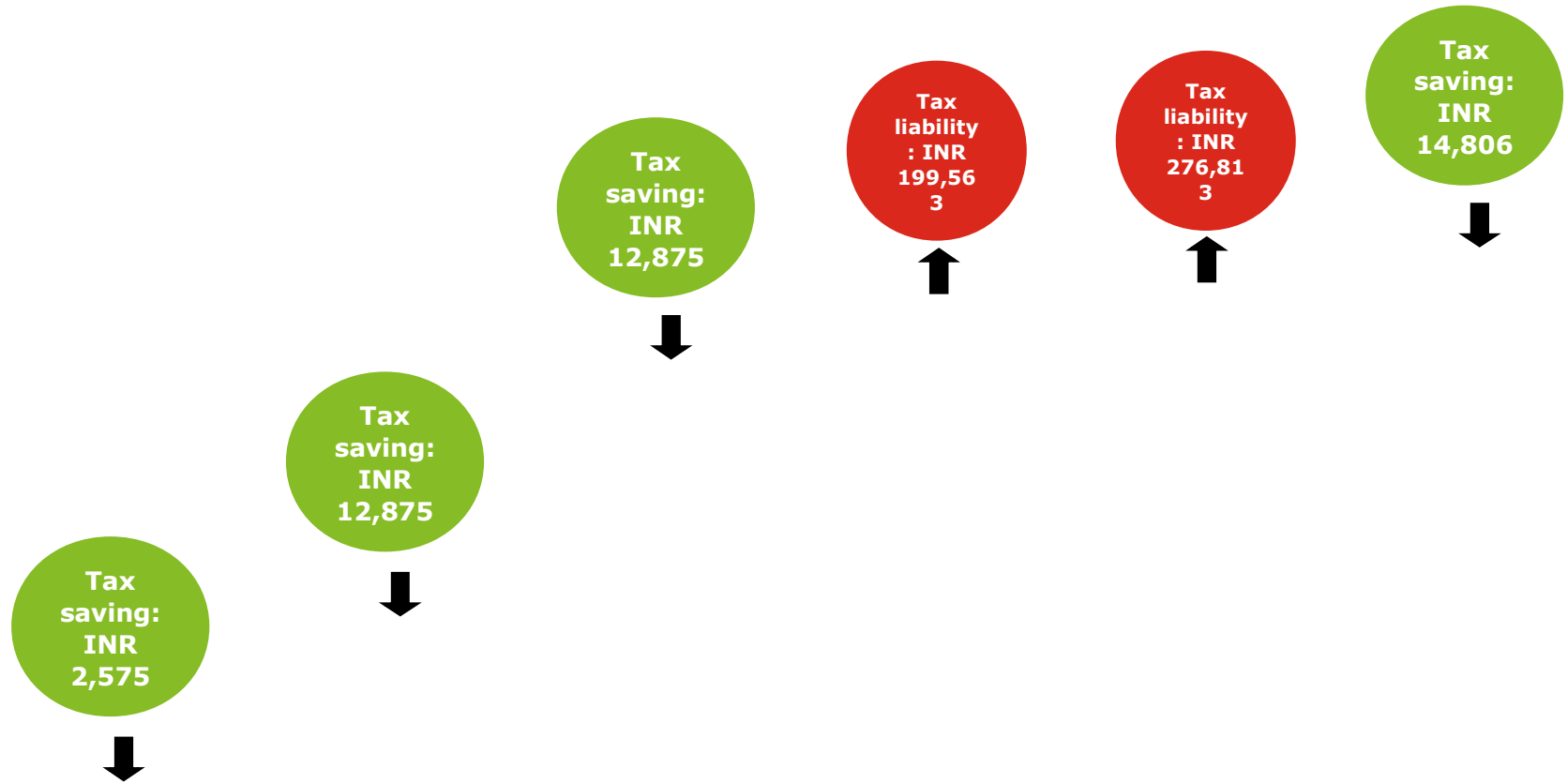
- These provisions, however, would not apply in case:
 - The amount of primary adjustment does not exceed INR 10 million;
 - and**
 - The primary adjustment is made in relation to any FY prior to 1 April 2016
- This change will be effective from 1 April 2018 and will apply for AY 2018-19 and onwards

Tax Slab Rates

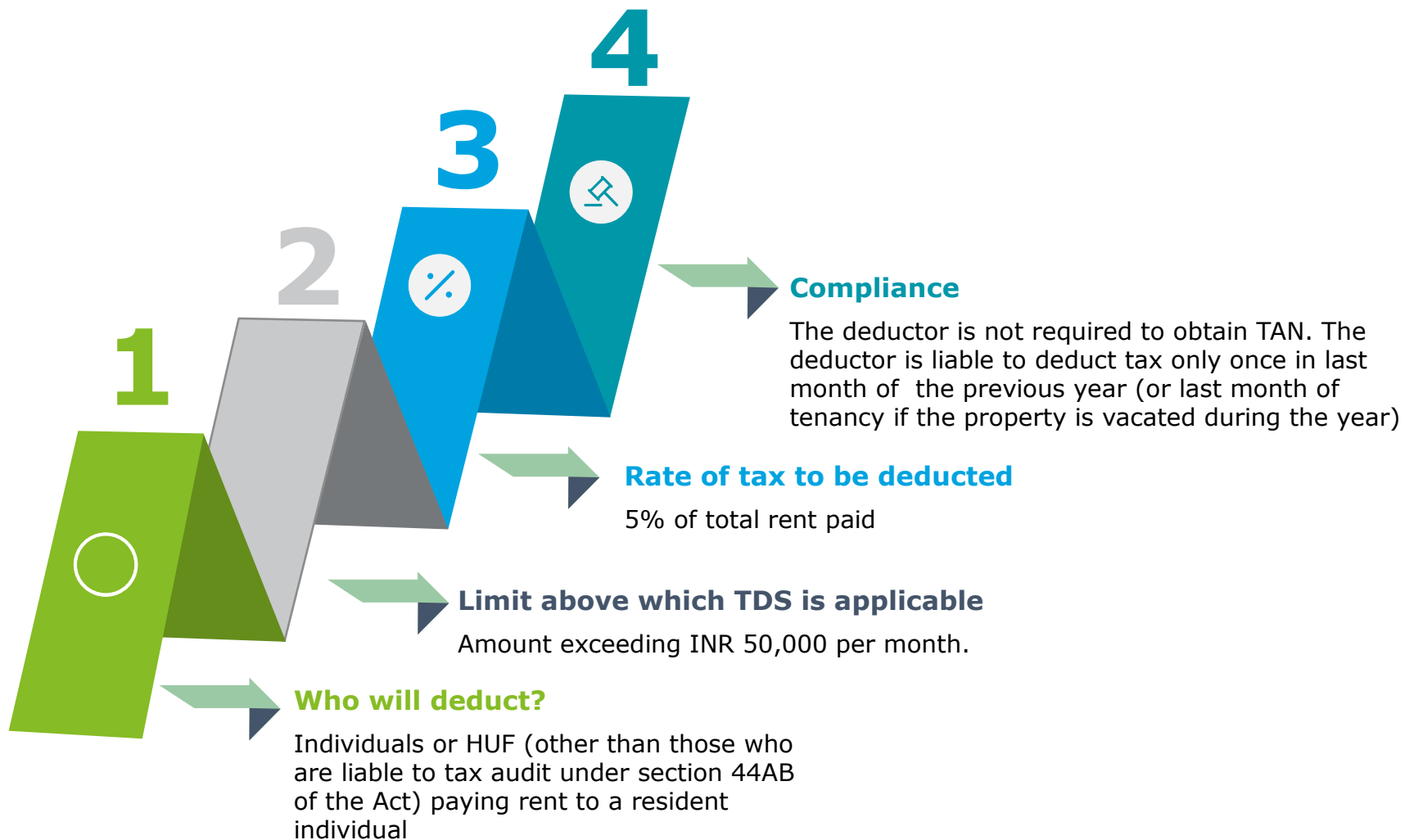
Status of individual	Slabs (INR)			
	Nil	Proposed 5% (Earlier 10%)	20%	30%
Resident / non-resident	250,000	250,001 – 500,000	500,001 – 1,000,000	1,000,001 & above
Resident – Senior Citizen (60 to 79 years)	300,000	300,001 – 500,000	500,001 – 1,000,000	1,000,001 & above
Resident – Very Senior Citizen (80 years and above)	500,000	-	500,001 – 1,000,000	1,000,001 & above

- No change in Maximum tax rate of 35.535% and education cess of 3%
- Surcharge @10% introduced where total taxable income exceeds INR 5 million but not exceeding INR 10 million. Surcharge of 15% continues where total taxable income exceeds INR 10 million.
- Earlier, rebate for Resident individuals having income less than 0.5 million was INR 5,000. It is proposed to reduce the rebate to INR 2,500 for individuals whose taxable income is less than INR 0.35 million to bring it in line with reduced tax rate.

Tax impact



TDS on rent paid by individual and HUF (w.e.f 1 June 2017)



Restriction on set off of loss from House property

Existing

Loss on account of house property can be set off against any other head of income in the same year **without any limit.** Balance unabsorbed loss to be carried forward and set off only against "Income from House property" (upto next 8 years)

Proposed

Loss on account of house property can be set off only upto INR 200,000 against income under any other head in the same year. Balance unabsorbed loss to be carried forward and set off only against "Income from House property" (upto next 8 years)

Particulars	Existing	Proposed
Rental income	200,000	200,000
Less: Standard deduction	(60,000)	(60,000)
Less: Interest on house property	(600,000)	(600,000)
Loss on house property	(460,000)	(460,000)
Loss to be set off against income under any other head in same year	460,000	200,000
Amount to be carried forward and set off only against "Income from House property" (upto next 8 years)	NIL	(260,000)

Rationalization of deduction under section 80CCG

Restriction on cash donations under section 80G

Existing Provision

Currently, deduction in respect of donation made by cash is allowed only for payments upto INR 10,000

Proposed Provision

In order to boost cash less economy and transparency in the system it is proposed to reduce the above limit to INR 2,000

Parity in tax treatment between employee and self employed person under National Pension Scheme (NPS) (Section 80CCD)

Existing

For salaried employees, in respect of contributions made to NPS, (in addition to employee's contribution), an employee is entitled to a deduction of Employer's contribution to the extent of 10% of salary (without any limit).

However, in case of self- employed individuals, the deduction for their contribution to NPS was limited to 10% of the gross total income (GTI) (restricted to overall limit under section 80CCE of INR 150,000). Further, both categories of individuals are also entitled to additional deduction for their contributions of upto INR 50,000.

Proposed

It is proposed that in order to bring parity with salaried employees, self employed individuals should be allowed deduction for their contribution to NPS upto 20% of GTI.

However, the above proposed amendment (increasing the deduction from 10% of GTI to 20% of GTI) does not appear to provide parity with employees as the self employed individuals would still be able to claim the deduction only upto the maximum limit of INR 150,000 (plus the additional INR 50,000) as compared to employees where the deduction for the employer contribution is not subject to any monetary limit [under section 80CCD(2)].

Taxability of NPS in case of Partial withdrawal

- A new clause has been inserted under section 10 of the Act exempting 25% of the employee contribution in respect of partial withdrawal in line with the partial withdrawal permitted under the NPS Scheme.
- Currently, there is no specific exemption in respect of partial withdrawal (before closure of the NPS account)

There is no clarity whether the exemption under section 10(12A) of the Act introduced by the Finance Act 2016, (in respect of payment on closure of the NPS account) should be restricted to 40% of the total amount payable to the individual (including the amount of partial withdrawal)

Other Amendments

Taxability of dividend exceeding INR 1 million in the hands of shareholders

- Under the existing provisions, an individual, Hindu Undivided Family or a firm, being resident in India, is taxed at the rate of 10% on income by way of dividend exceeding INR 1 million
- It is proposed to widen the scope to cover all resident persons / assesseees except:
 - Domestic company;
 - Funds, educational institutions, trusts, etc. referred to in section 10(23C) and section 12AA of the Act

Other Amendments

Tax collection at source

Cash sale of jewelry

- Cash sale of jewelry exceeding INR 0.5 million is currently subject to TCS at 1%
- The above provision is proposed to be omitted in view of insertion of new provisions restricting cash receipts of INR 0.3 million or more

Sale of a motor vehicle

- Sale of motor vehicle of the value exceeding INR 1 million is currently subject to TCS at 1%
- It is proposed to exempt specified class of buyers, e.g. the Central Government, a State Government, an embassy, a High Commission, etc., from the above levy

Higher TCS in absence of PAN

- A new section 206CC proposed to be inserted (similar to section 206AA in respect of TDS)
- If the person paying any sum on which tax is collectible at source does not furnish PAN to the recipient, tax shall be collected at the higher of the following rates –
 - At twice the rate specified in the relevant provision; or
 - At the rate of 5%
- Declaration for nil TCS not to be considered as valid in absence of PAN
- Lower TCS certificate not to be granted unless the application contains PAN
- The proposed amendment not applicable to a non-resident not having PE in India

Other Amendments

Rationalisation of advance tax provisions

Professionals declaring income under presumptive taxation regime

- Provisions relating to single advance tax instalment proposed to be made applicable to professionals declaring income under the presumptive taxation regime
- Consequential amendments proposed under section 234C

Relaxation in respect of dividend income taxable under section 115BBDA

- Dividend income taxable under section 115BBDA is currently subject to advance tax provisions without any relaxation
- It is proposed to not levy interest under section 234C on shortfall of advance tax resulting from under-estimate or failure to estimate dividend income taxable under section 115BBDA subject to fulfilment of specified conditions

Other Amendments

Enabling of filing of Form 15G/15H for insurance commission

- Tax is not deductible if the recipient of certain specified payments furnishes a self-declaration under section 197A regarding nil tax liability
- Scope of the benefit proposed to be expanded to insurance commission
- The proposed amendment is effective from 1 June 2017

Other Amendments

Search and seizure (1)

- Where an authority has 'reason to believe' or 'reason to suspect' of circumstances referred to in sections 132(1), 132(1A) and section 132A of the Act based on the information in his possession, he may authorise:
 - Search and seizure
 - Requisition from some other officer or authority to deliver books of account, documents or assets of the assessee
- It is clarified by way of an explanation to the respective sections that 'reason to believe' or 'reason to suspect' recorded by the authority shall not be disclosed to any person, authority or Appellate Tribunal
- The amendments will be effective retrospectively from the date of enactment of the provisions i.e. from 1 April 1962 in case of section 132(1) of the Act and from 1 October 1975 in case of section 132(1A) and 132A of the Act

Other Amendments

Search and seizure (2)

- It is proposed that authorised officer may provisionally attach any property belonging to the assessee
 - during the course of a search or seizure; or
 - within a period of 60 days from the date on which the last of the authorisations for search was executed, with the prior approval
- Such provisional attachment shall not have effect after the expiry of 6 months from the date of order of such attachment
- It is further proposed that the authorised officer may make a reference to a Valuation Officer for estimation of FMV of a property (undisclosed income held in the form of investment or property)
 - Valuation Officer to furnish the valuation report within 60 days of receipt of such reference

Other Amendments

Search and seizure (3)

- It is proposed to increase the period for which search may be conducted or requisition may be made, from existing 6 years preceding the assessment year relevant to the previous year to 10 years, subject to the following:
 - AO is in possession of books or documents or evidence which reveal that the income escaping assessment may be INR 5 million or more;
 - Such income escaping assessment is in the form of an asset;
 - The income escaping assessment or part thereof relates to the additional 4 years;
 - Such search or requisition is initiated on or after 1 April 2017

Other Amendments

Extension of power of survey

- The tax authorities have the power to enter any place, at which
 - a business or profession is carried on, or
 - at which any books of account or other documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept, for the purposes of conducting a survey
- It is proposed to widen the scope to include any place at which an activity for charitable purpose is carried on
- The amendment will be effective from 1 April 2016

Other Amendments

Legislative framework to enable centralised issuance of notice and processing of information

- Prescribed tax authority has power to issue notice calling for information and documents for the purpose of verification of information in its possession
- To expedite verification and analysis of the information and documents so received, it is proposed to empower the CBDT to make a scheme for:
 - centralised issuance of notice;
 - processing of documents; and
 - making the outcome thereof available to the AO
- This amendment will be effective from 1 April 2016

Other Amendments

Return of income

- Currently, the return of income is required to be filed in respect of the certain entities which are exempt from tax
- It is proposed to extend the scope filing the return of income to include the following entities for:
 - Investor Protection Fund;
 - Core Settlement Guarantee Fund; and
 - Specified persons enjoying exemption under section 10(23AAA) and section 10(29A) shall also be mandatorily required to file return of income
- It is also proposed to amend the time limit for filing a revised return to the end of the relevant assessment year (from one year from the end of relevant assessment year) or completion of assessment, whichever is earlier

Other Amendments

Intimation and issue of refund

- Finance Act, 2016 introduced a provision that processing of return shall not be necessary before the expiry of the period specified in the second proviso to section 143(1)
- In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, it is proposed that the above provisions shall cease to apply
- It is proposed that the AO can withhold the refund for the reasons recorded in writing and after obtaining required approvals, if he is of the opinion that grant of the refund may adversely affect the recovery of revenue
- The proposed amendment is effective from assessment year 2017-18

Other Amendments

Restriction on cash transactions

- It is proposed that no person shall receive an amount of INR 300,000 or more otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account-
 - in aggregate from a person in a day;
 - in respect of a single transaction; or
 - in respect of transactions relating to one event or occasion from a person
- The said restriction shall not apply to -
 - Government, any banking company, post office savings bank or co-operative bank
 - The transactions of taking or accepting loans, deposits or sum of money receivable for transfer of immovable property (currently, such transactions are restricted by separate provision)
 - Such other persons or class of persons or receipts as may be notified by the Central Government, for reasons to be recorded in writing
- A penalty equal to the amount received in cash shall be levied on a person who receives such sum, unless it is proved that there was sufficient reasons for such contravention

Other Amendments

Time limit for completion of assessment proceedings (1)

- It has been proposed to amend the time limit for completion of assessment proceedings as under:

Existing	Proposed in respect of assessment year 2018-19	Proposed in respect of assessment year 2019-20
21 months from the end of the assessment year in which income was assessable	18 months from the end of the assessment year in which income was assessable (i.e. by 30 September 2020)	12 months from the end of the assessment year in which income was assessable (i.e. by 31 March 2021)

- The aforesaid changes in the time limit of completion of assessment are also proposed to be applicable for passing an order in case of search or requisition cases conducted in financial year 2018-19 and 2019-20

Other Amendments

Time limit for completion of assessment proceedings (2)

Particulars	Existing	Proposed	Additional conditions
Time limit for completion of re-assessment proceedings	9 months from end of financial year in which notice under section 148 of the Act is served	12 months from end of financial year in which notice under section 148 of the Act is served	Applicable to notice under section 148 of the Act served on or after 1 April 2019
Time limit for making an order of fresh assessment pursuant to orders passed or received	9 months from end of financial year in which order is received	12 months from end of financial year in which order is received	Orders passed or received in financial year 2019-20 and onwards
Time limit for giving effect to orders passed	9 months from end of financial year in which order is passed	12 months from end of financial year in which order is passed	Applicable where verification of any issue is required or where an opportunity to be heard is to be provided to the assessee

Effective from 1 April 2016

Other Amendments

Fee for delay in filing the return of income

- It is proposed to levy fee for delay in filing the return of income after the prescribed due dates:
 - INR 5,000 ~ if return is filed on or before 31 December of the assessment year
 - INR 1,000 ~ if total income does not exceed INR 500,000
 - INR 10,000 ~ any other case
- Current penalty of INR 5,000 for failure to file return of income before the end of the relevant assessment year will not be applicable
- It is proposed to amend provisions relating to self-assessment tax to include that in case of delayed filing of return of income, the assessee shall be required to pay a fee for delay along with the tax and interest payable
- Further, while processing the return, the fee for delay shall also be considered in computation of amount payable or refund due

Other Amendments

Interest on refund arising to the tax deductor

- Currently, the assessee is entitled to receive interest on refund arising out of excess payment of advance tax, TDS, TCS or other tax payments
- It is proposed to grant interest on refund arising to the tax deductor-
 - In case of claim for refund made in the prescribed form ~ from the date such claim to the date on which refund is granted
 - In case of an order passed in appeal ~ from the date on which the tax is paid to the date on which refund is granted
- The proposed amendment is effective from 1 April 2016

Other Amendments

Corpus donation to other trusts not to be treated as application of income

- Under the existing provision, donations (except donations made out of accumulated income) by a trust or institution to any other trust or institution is considered as application of income for the purposes of its objects
- It is proposed that corpus donation made by a trust or institution to any other trust or institution shall not be treated as application of income

Other Amendments

Charitable and Religious Trusts

Procedural clarification in respect of change or modification of object and filing of tax return

- It is proposed to introduce a new provision whereby an exempt trust shall be required to obtain a fresh registration in case of modifications in the objects after initial registration has been granted
 - Application to be made within 30 days of modification
 - the amendment is clarificatory in nature
- It is proposed to introduce a clarification to provide an additional condition of filing the return of income within the prescribed time line for availing the exemptions under sections 11 and 12

Other Amendments

Exemption in respect of income of certain funds

- Currently, exemption is provided in respect of income of certain funds such as Prime Minister's National Relief Fund
- However, no exemption is provided to Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund which are of the same nature
- It is proposed to provide exemption in respect of income of the above funds
- The proposed amendment will take effect retrospectively from 1 April 1997

Other Amendments

Presumptive taxation

- It is proposed to reduce the existing rate of deemed profit of 8% to 6% in respect of total turnover or gross receipts received through account payee cheque or account payee bank draft or use of ECS through a bank account during the previous year or before the due date of filing the return of income
- The existing rate of deemed profit of 8% shall continue to apply in respect of total turnover or gross receipts received in any other mode
- It is proposed to exclude eligible assessee opting for presumptive taxation scheme from requirement of audit of books, in case the total sales, total turnover or gross receipts, in business does not exceed INR 20 million in such previous year
 - The proposed amendment is effective from 1 April 2016

Other Amendments

Change in structure of AAR

- It is proposed to merge the AAR for income-tax, central excise, customs duty and service tax
- Currently, Judge of the Supreme Court is eligible to be Chairman of the AAR
- It is proposed that former Chief Justice of a High Court, or a person who has been a High Court Judge for at least seven years shall also be eligible to be Chairman of the AAR
- It is also proposed that in the absence of Chairman, the Vice-chairman shall discharge the functions of the Chairman until the new Chairman enters upon his office or until the incumbent Chairman resumes his duties

Other Amendments

Orders passed under section 10(23C)(iv) or (v) made appealable

- Section 10(23C)(iv) provide that income received by any charitable funds or institution which is approved by the prescribed authority is not subject to tax
- Similarly, section 10(23C)(v) provides that trust or institution established wholly for public religious and charitable purpose is not liable for tax if such trust or institution is approved by the prescribed authority
- For this purpose, the taxpayer will need to make an application to the tax authorities for the same
- The tax authorities will dispose of the application and pass an order. However, order passed by the tax authorities is not appealable
- It is proposed to provide that a taxpayer aggrieved by the order passed by the prescribed authority under section 10(23C)(iv) or (v) may appeal to the Appellate Tribunal

Other Amendments

Threshold limits for maintenance of books

- In the case of individuals and HUF carrying on business or profession (other than persons engaged in legal, medical, etc.), it is proposed to increase the threshold limits for maintenance of books to:
 - income exceeding INR 2.5 lakhs (earlier INR 1.2 lakhs); and
 - total sales/ turnover/ gross receipts exceeding INR 25 lakhs (earlier INR 10 lakhs)

Other Amendments

Exemption of income of political parties

- Under the provisions of the Act, certain income of political parties is exempted from tax subject to maintenance of books, maintenance of records of contributions exceeding INR 20,000 and audit of books
- It is proposed to introduce the following additional conditions to avail the exemption:
 - No donation exceeding INR 2,000 is received otherwise than by account payee cheque/ bank draft or use of ECS through a bank account or electoral bond
 - Return of income is furnished on or before the prescribed due date
- It is also proposed to provide an exemption from maintenance of records/ reporting for contributions by way of electoral bonds

Other Amendments

Miscellaneous

- Existing provision of disallowance of 30% of sum payable to a resident for not complying with the TDS provisions while computing income chargeable under the head 'profit and gains of business or profession' is proposed to be extended to computation of income under the head 'income from other sources'
- It is proposed to levy penalty of INR 10,000 for incorrect information in a report or certificate furnished by an Accountant, Merchant Banker or Registered Valuer for each such report or certificate, unless it is proved that there was reasonable cause for such failure

Thank You