

## **Union Budget 2018 – Tax Proposals Highlights**

### **Direct Tax**

#### **PERSONAL TAXATION:**

- No change in personal income tax slabs and rates;
- Cess increased to 4% from 3% by replacing Education Cess(s) with a new Health & Education cess;
- Standard Deduction of Rs 40,000 to be allowed in lieu of transport allowance and medical expenses for salaried class;
- Interest income exemption on deposits with banks and post offices for senior citizens is available upto Rs 50,000 replacing Rs 10,000 available for savings bank interest; TDS is also not required to be deducted under section 194A upto this limit;
- Health insurance premium and/or general medical expenditure incurred for /by Senior citizens eligible for enhanced /extended benefit of deduction up to Rs 50,000 annually under Section 80D of the Income Tax Act;
- Increase in deduction limit for medical expenditure for certain critical illness from Rs 60,000 (in case of senior citizens) and from Rs 80,000 (in case of very senior citizens) to Rs 1 lakh for all senior citizens, under section 80DDB;
- NPS withdrawal exemption upto 40% available to employees is now extended to non-employees as well;
- Payments exceeding Rs 10,000 in cash made by trusts and institutions to be disallowed and would be subject to tax; Provisions of TDS disallowance under section 40(a)(ia) are also extended to Trusts;

#### **CAPITAL GAIN:**

- Long-term capital gains on equity shares / Equity oriented units of mutual funds over Rs 100,000 to be taxed at 10% without indexation;
- Grandfather treatment in not taxing any gain made upto 31-01-2018 is provided;
- No adjustment in respect of Capital gain in the hands of Seller / Income from other sources in the hands of Buyer would be made on transactions in immovable property where Stamp Duty value does not exceed 5% of consideration;
- Exemption under Section 54EC for investment in specified bonds available on long-term capital gains now restricted to transfer of an immovable property (land or building or both). The lock-in period of such bonds is also increased to 5 years;

## **BUSINESS TAXATION:**

- Reduced Corporate Income Tax Rate of 25% currently available for companies with turnover of less than 50 crore (in Financial Year 2015-16) extended to companies reporting turnover up to Rs. 250 crores in Financial Year 2016-17;
- Subsidy/ grants/cash incentives/duty drawback etc., as defined in section 2(24) (xviii) is taxable in the year of receipt, if not charged to tax in any of the earlier previous years under a new Section 145B;
- Taxability in case of conversion of stock-in-trade into capital asset introduced:
  - Any profit or gains arising from conversion of inventory into capital asset shall be charged to tax as business income under Section 28. For the purpose of computing the business profits, the FMV of the inventory as on the date of conversion, shall be deemed to be the full value of the consideration of such inventory.
  - For the purposes of computation of capital gains arising from transfer of such converted capital assets, the FMV as on the date of conversion shall be the cost of acquisition as per Section 49 and the period of holding for such capital asset shall be reckoned from the date of conversion or treatment;
- Any compensation received in connection with the termination or modification of a contract is taxable as business income under Section 28 / as income from other sources under Section 56;
- Amendment to Section 115BA is proposed to clarify that the beneficial rate of taxation of 25% for Start-ups is available only in respect of income arising from the business operations of manufacturing, production, etc and not on other income;
- Deduction of 30% on emoluments paid to new employees under Section 80-JJAA extended to footwear and leather industry and is also made available to employees who have worked less than the prescribed no. of days in the year of employment, in the succeeding year provided they continue to remain in the employment for a stipulated no. of days in that year;
- 100% tax deduction for first five years to companies registered as farmer producer companies with a turnover of Rs 100 crore and above;
- Section 9 of the Income Tax Act is amended to align with the provisions in the DTAA as modified by Multilateral Convention to Implement Tax Treaty Related Measures in curbing the practice of multi-national companies of artificially avoiding the PE in source state through commissionaire arrangements;
- Amendment to Section 9 of the Income Tax Act is made to enable the Govt. to levy tax on dot com companies who have digital presence in India without any physical presence;

- Amendment to section 79, which requires continuity in the beneficial ownership of not less than 51% of the voting power for availing the benefit of carry forward and set off of business losses in the case of closed held companies, to relax its rigours for companies whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016;
- Amendment to section 43(5) is made to treat the transaction in agricultural commodity derivatives done through a registered stock exchange or registered association as non-speculative transaction even if the same is not chargeable to CTT;
- Section 115JB is proposed to be amended to benefit the rehabilitating companies that are seeking insolvency resolution by allowing them to claim deduction of both unabsorbed depreciation and brought forward losses while calculating book profits for the purpose of MAT;
- A series of amendment is proposed to give legal validity for certain ICDS provisions by overturning the decision of the Delhi High Court in the case of Chamber of Tax Consultants v. Union of India (2017) 87 taxmann.com 92 (Delhi) is as under:
  - **ICDS I** - Marked to market loss or other expected loss as computed in accordance with the ICDS shall be allowed as deduction under Section 36 (1)(xviii);
  - **ICDS II** - Valuation of inventory, in the event of dissolution of firm and continuation of business by surviving partners, shall be made at lower of cost or net realizable value under Section 145(2);
  - **ICDS –III** - Profits and gains arising from construction contract or a contract for providing service is to be determined in accordance with the ICDS notified under section 145(2) under the new Section 43CB with some exceptions for shorter duration and contracts with innumerable acts;
  - **ICDS –VI** - Any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss under newly inserted section 43AA;
  - **ICDS –VI** - Export incentives are treated as income of the previous year in which reasonable certainty of its realization is achieved under new Section 145B (Apex court decision in the case of CIT v. Excel Industries Ltd. [2013] 38 taxmann.com 100 nullified);

#### **DIVIDEND DISTRIBUTION TAX:**

- Proposal to introduce tax on distributed income by equity oriented mutual funds at the rate of 10%;
- To prevent any abusive arrangements of companies in bypassing the provisions of deemed dividend under Section 2(22)(d) of the Income Tax Act, an amendment is proposed to increase the Accumulated profits/losses of an amalgamated company by

the accumulated profits of the amalgamating company (whether capitalized or not) on the date of amalgamation;

- Companies are now liable to pay DDT on the deemed dividend at the rate of 30% in order to prevent payment of dividend by closely held companies in the form of loans or advances and the same is exempt in the hands of Shareholders;

#### **DEDUCTIONS:**

- No deduction would be allowed to a taxpayer under the provisions of sections 80 H to 80RRB if income-tax return is not filed on or before the due date;
- Amendment in section 80-IAC to promote new start-ups by expanding its scope to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation; Period of coverage and other conditions are also relaxed;

#### **ASSESSMENT & OTHER PROVISIONS:**

- **No adjustment under section 143(1) on account of mismatch with Form 26AS:** No adjustments shall be made in respect of Income-tax return furnished on or after Assessment Year 2018-19 just to account for the difference in the income reported in ITR and displayed in Form 26AS or Form 16A or Form 16;
- E-assessment of Income Tax Act to eliminate person-to-person contact;
- Every non-individual entity should have to obtain a PAN as its Unique Entity Number (UEN) if they enter into a financial transaction of an amount aggregating to Rs. 2.50 lakhs or more in a financial year under Section 139A;
- Extension of due date for Country by Country Reporting (CbCR) from the due date for filing of return to 12 months from the end of reporting accounting year;
- Appeal can be filed with ITAT by an accountant/ merchant banker/ registered valuer against the penalty order of Assessing Officer under section 271J;
- Higher penalty for default in furnishing AIR upto Rs.500 / Rs.1000 per day of default under Section 271FA of the Income Tax Act;

## Customs Act & Other legislatures:

### I. Customs Duty:

1. Duty increased on the following goods:

Sl. No.	Commodity	Existing Rate	New Rate
1	Perfumes & toiletry items	10%	20%
2	Footwear	10%	20%
3	Furniture	10%	20%
4	Watches & Clocks	10%	20%
5	Toys & Games	10%	20%
6	Auto components	10%	20%
7	LCD/LED Panels	10%	20%
8	Jewellery	15%	20%
9	Mobile Phones	15%	20%
10	Food Processing ( Concentrates )	30%	50%

2. Education & Higher Education Cess @ 3% abolished.

3. Benefits of Duty Drawback scheme extended for exports made by post also.

4. Payment of duty thru' Electronic Cash Ledger introduced to reduce time for clearance of imported goods.

5. "LET" import concept introduced subject to payment of appropriate duty & to the satisfaction of the concerned Officer.

6. Time limit for payment of penalty fixed at 120 days from the date of passing order to this effect.

### II. Road Infrastructure Cess:

To finance road infrastructure, **10% Cess** on basic customs duty imposed **on import of Petrol & Diesel**.

### III. Social Welfare Cess:

**10% additional duty on import of all goods** imposed to finance social welfare measures for the people. This levy is payable on Basic customs duty & IGST.

#### **IV. SEBI Act:**

Market regulator is enabled to impose any amount by way of penalty for contravention of any of the provisions of the Act which at present can be exercised only by adjudicating authority

#### **New Penal Provisions:**

Penalty provisions proposed to be inserted under SCRA, SEBI Act & Depositories Act in case where market intermediaries fail to conduct their business in accordance with prescribed rules or regulations:

- a) Minimum fine of Rs. 5 crores under the SCRA on Stock Exchanges and Clearing Corporation.
- b) Minimum penalty of Rs. 1 lac under SEBI Act, 1992 on Investment Advisers and Research Analyst
- c) Minimum penalty of Rs. 5 crores under Depositories Act, 1996 on Depositories

New provisions relating to continuance of the legal proceedings are proposed to be inserted in the SCRA, SEBI Act and Depositories Act, 1996 whereby legal representative shall be liable to pay in case penalty has been imposed before the death of deceased person.

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