

A DISCUSSION PAPER ON CHAPTER III- DIRECT TAXES OF FINANCE BILL, 2018- FEBRUARY 2018

Introduction- Thanking everyone for the response to our Discussion Papers of 2016 and 2017

The Finance Bill, 2018 was presented in Lok Sabha on 01st February 2018. In Chapter III of Finance Bill, 2018, there has been 53 amendments to the Income-tax Act, 1961 (in comparison to 112 in the Finance Bill of 2016 and 87 in Finance Bill, 2017).

Coverage

This discussion paper attempts to cover only certain sections of the Finance Bill, 2018 relating only to Direct Taxation. The readers are requested to contact the author, in case of errors (which are unintentional) and also in case of divergent views with the author's note.

Disclaimer

This discussion paper attempts to cover the amendments broadly and **not in detail**. The sections selected for discussion are selected with the sole objective to have a detailed discussion for knowledge sharing with an incidental objective of average coverage of the amendments. It does not provide legal opinions, nor does it contain or purport to contain any specific legal, compliance, accounting, tax or any other advice under any other law for the time being in force in and outside India on the topics covered. It is further understood that recipients of these series of articles will obtain their own legal and other relevant professional advice, in accordance with their specific interests, needs, and circumstances.

Further unless otherwise specifically mentioned, sections discussed in this paper, relates to Income-tax Act, 1961 and the Finance Bill 2018. Please refer to Finance Bill 2018 and the relevant pronouncements before taking any decision.

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**A DISCUSSION PAPER ON CHAPTER III- DIRECT TAXES OF FINANCE
BILL, 2018- FEBRUARY 2018**

Acronym and Description

S.No	Acronym	Description
1	PY	Previous Year
2	AY	Assessment Year
3	ROI	Return of Income
4	CG	Central Government
5	BEPS	Base Erosion and Profit Shifting
6	POEM	Place of Effective Management
7	PGBP	Profit and Gains from Business or Profession
8	LTCG	Long Term Capital Gain
9	MAT	Minimum Alternate Tax
10	IAS	Indian Accounting Standards
11	AO	Assessing Officer
12	STT	Securities Transaction Tax
13	FMV	Fair Market Value
14	PE	Permanent Establishment
15	FII	Foreign Institutional Investor
16	CbCR	Country by Country Report
17	ICDS	Income Computation and Disclosure Standards

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1. Tax on Long -term Capital Gains- Sunset clause to 10(38), Insertion of 112A

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario and reference to the Explanatory Memorandum

1. From 2004-05, LTCG on Equity Shares was abolished replacing it with STT. At present, gains from selling shares that are subject to STT (both at the time of purchase and sale) after holding them for more than a year, were exempt from tax.
2. This regime is inherently biased against manufacturing and has encouraged diversion of investment in financial assets. It has also led to significant erosion in the tax base resulting in revenue loss. The problem has been further compounded by abusive use of tax arbitrage opportunities created by these exemptions.

Amendment

1. With the insertion of fourth proviso, sunset clause has been given to beneficial provision of Section 10(38), till 31.03.2018.
2. Vide new Section 112A, the above LTCG *exceeding Rs. 1 Lakhs would be taxable at the rate of 10%* subject to STT and other conditions.
3. Benefit of indexation would not apply
4. The gains would be grandfather by computing the gains based on the share price on 31st January 2018.

Author's note

1. The table shows the taxability in few scenarios.

Date of Investment	Investment Amount(Rs.)	Date of Sale	FMV of Share at 31st Janaury 2018 (Rs.)	Sale Value(Rs.)	Taxability	Tax including (Health and Education Cess at 4%)(Rs.)	Remarks

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17- January- 2017	1,00,000	18- January -2018		2,60,000	Not taxable	N.A	
14- February- 2017	1,25,000	02- April- 2018	2,00,000	2,80,000	Not taxable	N.A	Sale Considera tion - Rs. 2.80 Lakhs, FMV at 31.01.201 8- Rs. 2 Lakhs LTCG is Rs. 0.80 Lakhs (less than Rs. 1 Lakh)
12- March- 2017	2,00,000	17- June- 2018	3,25,000	4,65,000	Taxable	4,160	Sale Considera tion - Rs. 4.65 Lakhs, FMV at 31.01.201 8- Rs. 3.25 Lakhs LTCG is Rs. 1.40 Lakhs. Taxable value - Rs 0.40 Lakhs (Rs. 1.40 Lakhs- Rs. 1 Lakh)

2. Last year, LTCG on sale of unlisted shares was subjected to tax. [Point No.4 of our Discussion Paper of 2017]. Now the balance counterpart has also been brought under the same umbrella.
3. This move would bring in revenue of **Rs.20,000 Crore** to the CG in the first year with an incremental trend in the subsequent years.
4. It would not be a surprise, if there is surge in the sale of shares for the year ending 31st March 2018.

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5. The CBDT has issued an FAQ on 04th February 2018 on the taxation of LTCG based on the provisions of Finance Bill 2018.

2. Relief to Senior Citizens

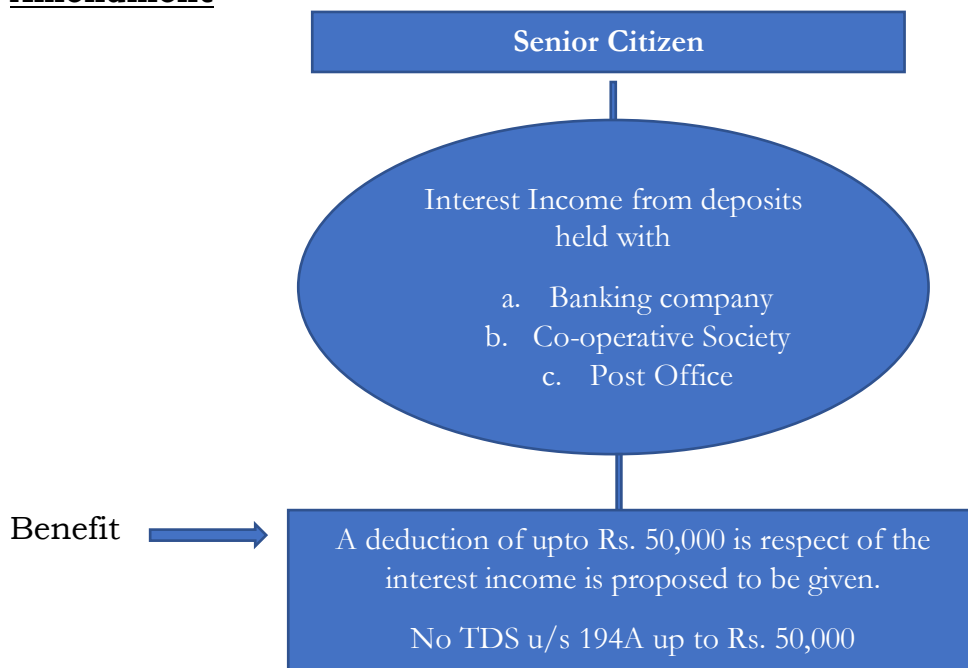
2.1 Exemption of Interest Income-Insertion of Section 80TTB and amendment of Section 194A

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Present scenario and reference to the Explanatory Memorandum

Deduction upto Rs. 10,000 is allowed u/s 80TTA with respect to interest income from savings account for all categories of assesses. A benefit is conferred upon the senior citizens.

Amendment



2.2 Enhanced deduction for Health Insurance Premium and Medical Expenditure- Amendment of Section 80D

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With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Amendment

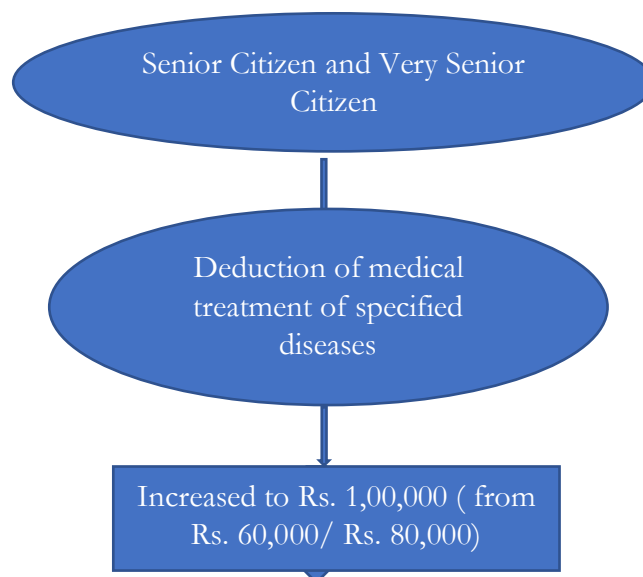
Deduction for annual premium on health insurance policy or preventive health check-up or medical expenditure, of a senior citizen is proposed to be raised from **Rs. 30,000 to Rs. 50,000**

In case of single premium health insurance policies having cover for more than 1 year, it is proposed to allow deduction on proportionate basis.

**2.3 Enhanced deduction for medical treatment of specified diseases-
Amendment of Section 80DDB**

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Amendment



3. Application of Dividend Distribution Tax to Deemed Dividend and Dividend Payouts in Equity Oriented Fund- Amendment of Section 115-O , Section 115Q and Section 115R

With effect from AY 2019-20

Present scenario and reference to the Explanatory Memorandum

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- a. Dividend Distribution tax does not apply to loans or advances extended to eligible shareholder, which would be deemed as dividend at the time of assessment.
- b. Tax on such deemed dividend would be levied on the shareholder at the applicable marginal rate.
- c. This taxability from the recipient has posed serious problems with respect to the collection and has also been a subject matter of extensive litigation.
- d. Dividend Payout – Equity Oriented Fund- Income distributed to a unit holder of equity-oriented funds was not chargeable to tax u/s 115R (distribution tax was not applicable)

Amendment

By amending Section 115-O and Section 115Q, deemed dividend is brought under the scope of dividend distribution tax.

The rate of taxation **would be 30% without grossing up.**

Dividend Payout – Equity Oriented Fund

Where any income is distributed by a Mutual Fund being an equity oriented fund, the mutual fund shall be liable to pay 10% of the income as distribution tax.

Author's note (not relating to amendment of Section 115R)

- a. This is to prevent camouflaging dividend in various ways such as loans and advances.
- b. In certain cases, both the recipient and the company would have to pay total tax **to the extent of 60% of the amount deemed as dividend.**

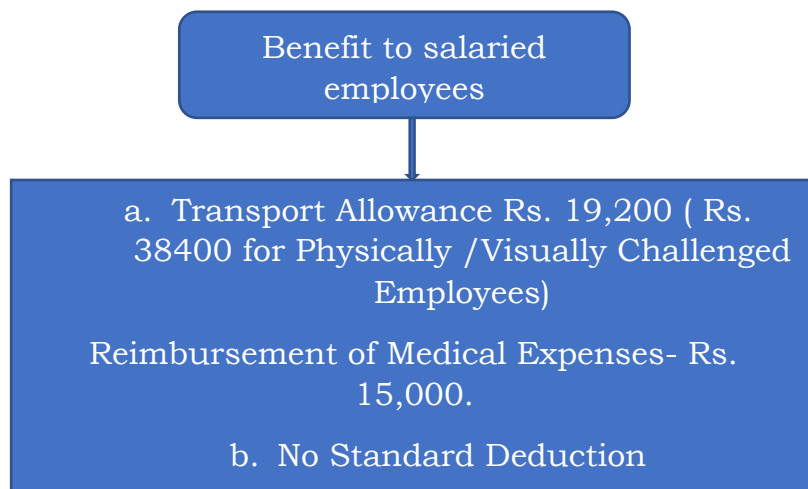
4. Marginal Relief to Salaried Class- Standard Deduction makes a comeback-Amendment of Section 16, Withdrawal of Transport allowance and medical expenditure reimbursement

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

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Present scenario



Amendment

A standard deduction of maximum of Rs.40,000 is proposed to be allowed in lieu of transport allowance and reimbursement of medical expenses.

Author's note

- a. The net benefit accruing is analysed as under

Proposed Standard Deduction	Rs. 40,000
Less: Withdrawal of Transport Allowance and reimbursement of medical expenditure	Rs. 34,200
Net Benefit – This would further reduce due to increase in Cess by 1%	Rs. 5 800

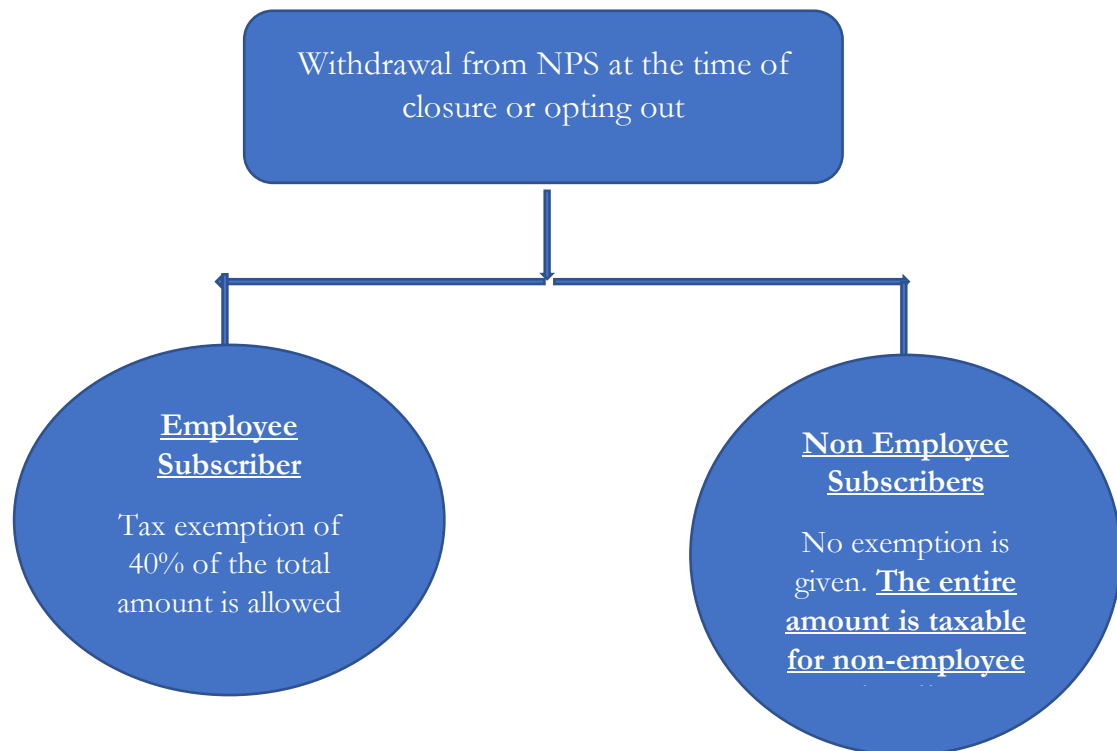
- b. This benefit is applicable to pensioners also.
c. The cost of the standard deduction to the CG would be approximately Rs. 8000 Crore

5. Withdrawal from NPS exempt to Non-employee subscribers

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

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Present scenario



Amendment

40% of the total amount withdrawn at the time of closure or opting out is exempt **for both employee and non-employee subscriber**.

Author's note

Though a level playing field is given to both employee and non-employee subscribers with respect to withdrawal at the time of closure/opting out, *the benefit of exemption for partial withdrawal continues to be restricted to employee subscribers only.*

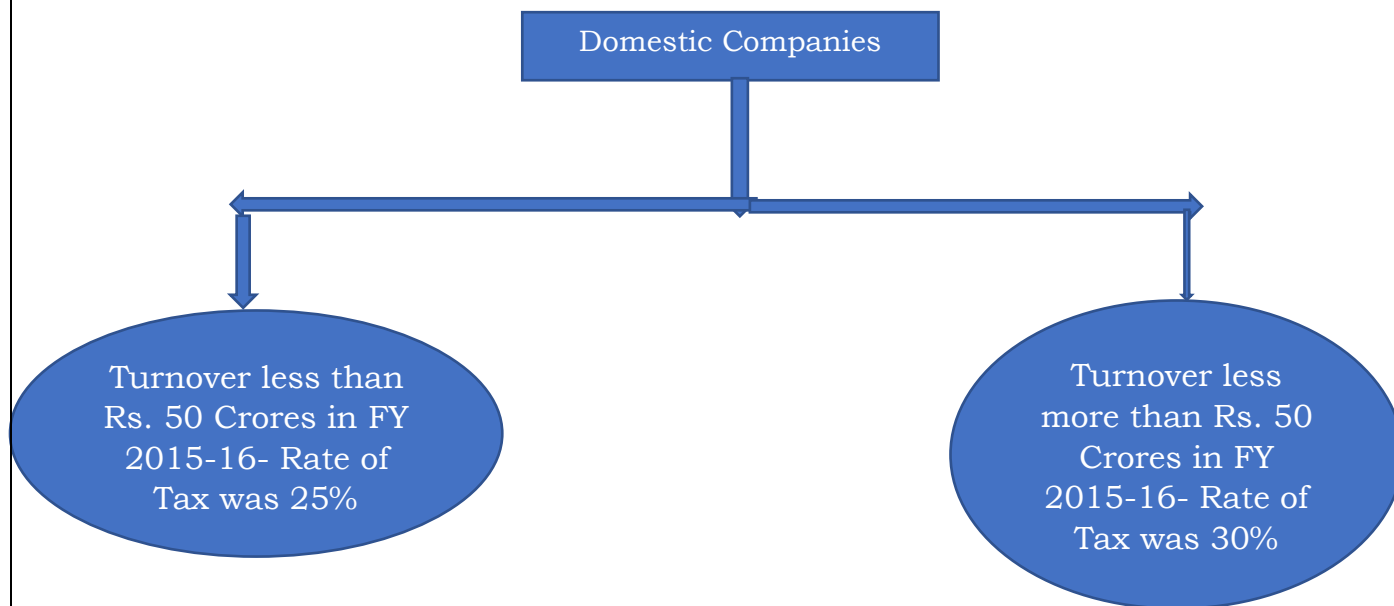
6. Incentives to MSME Companies- Rate of Corporate tax reduced to 25%- Resulting in higher investible surplus

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

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Present scenario



Amendment

The concessional rate of tax at 25% is extended to domestic companies, with total turnover or gross receipt in FY 2016-17 **not exceeding Rs. 250 Crores**

Author's note

- a. Based on the budget speech, this move would benefit 99% of the companies falling in the MSME Category. The estimated cost of this to the CG is Rs. 7000 Crores in FY 2018-19.
- b. The following table presents the rate of corporate tax in some of the countries

Country	Rate of Corporate Tax
USA	35%
UK	19%
Brazil	34%
Australia	30%
France	33.3%
China	25%

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Singapore	17%
Israel	25%

The average of the above rates comes to 27.28%. With this concessional rate of 25%, India's rate of corporate tax is on par with the global average.

7. Conversion of Stock-in-trade into Capital Asset-Amendment of Section 2, Section 28, Section 49

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario

- a. Conversion of Capital Asset into Stock-in-trade is taxable.
- b. Present law does not provide for taxability of conversion of Stock-in-trade into Capital Asset
- c. In order to provide symmetrical treatment and to discourage the deferring of tax payment this amendment is proposed.

Amendment

- a. Conversion of inventory into capital asset or treating it as capital asset shall be charged to tax as business income.
- b. FMV of inventory as on date of conversion or treatment shall be deemed to be full value of consideration.
- c. The FMV on the date of conversion shall be the cost of acquisition for Section 49.
- d. Period of holding shall be reckoned from date of conversion.

8. Hardship minimised in case of Transfer of Immovable Property-Amendment of Section 43CA, Section 50C and Section 56

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario and reference to the Explanatory Memorandum

- a. While taxing income from Capital Gains, income from business profits and other sources arising out of transactions in immovable property, higher of the following is adopted

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- Sale consideration or
 - Stamp Duty
- b. The difference is taxed as income both in the hands of purchaser and the seller.
- c. This variation can occur in respect of similar properties in the same area because of variety of factors including the shape of the plot.
- d. This amendment is proposed to minimize the hardship in case of genuine transactions.

Amendment

No adjustment shall be made to the sale consideration in case where the variation between stamp duty value and the sale consideration is not more **than 5% of the sale consideration.**

9. Trusts to go digital and facilitate better audit trial- Amendment of Section 11

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario and reference to the Explanatory Memorandum

- a. At present there are no restrictions on payments made in cash by charitable or religious trusts or institutions.
- b. There are also no checks on whether such trusts or institutions follow the provisions of Chapter XVII-B of the Act (TDS).
- c. Both of the above has led to lack of audit trail for verification for application of income

Amendment

The following provisions are applicable to trusts or similar institutions

- a. Section 40(a) (ia) – Disallowance in case of non-deduction or non-remittance of TDS
- b. Section 40A(3) and (3A) – Restrictions on cash payments made in a single day to a person.

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10. Aligning the scope of “Business Connection” with modified PE Rule as per Multilateral Instrument- Amendment of Section 9

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario and reference to the Explanatory Memorandum

- a. There are scenarios where by the person acting on behalf of the non-resident negotiates the contract but does not conclude the contracts. The present definition of “Business Connection” does not include this scenario within its ambit.
- b. If “Business Connection” is established then the concepts governing PE applies.
- c. In many cases, to avoid establishing a connection of PE , the person acting behalf of non-resident negotiates the contract but does not conclude the contract.
- d. Further PE is deemed not to exist when a place of business is engaged solely in certain activities such as maintenance of stocks of goods (unless it is auxiliary to the business as a whole)
- e. The OECD uner BEPS Action Plan 7 had reviewed the definition of PE in the above context and had recommended modifications to similar effect.
- f. With a view to prevent base erosion and profit shifting, the recommendations under the BEPS Action Plan 7 has been included in the Article 12 of the Multilateral Convention to implement Tax Treaty Related Measures (MLI) to which India is also a signatory. With this the scope of PE in DTAA has expanded considerably.
- g. However given that the domestic law would prevail over the provisions of DTAA , to the extent they are beneficial than the provisions of DTAA, this has made the provisions of DTAA ineffective.
- h. In view of the above, it is proposed to amend the provisions of Section 9 so as to align them with the provisions of DTAA as modified by MLI, so as to make the provisions to DTAA effective.

Amendment

“Business Connection” shall also include any business activities carried through a person who, acting on behalf of the non-resident,

- a. habitually concludes contracts or
- b. habitually plays the principal role leading to conclusion of contracts by the non-resident .

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- c. It is further proposed that the contracts should be-
- in the name of the non-resident; or
 - for the transfer of the ownership of, or
 - for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or
 - for the provision of services by that non-resident

**11. “Business Connection” to include “Significant Economic Presence”-
Amendment of Section 9**

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years.

Present scenario and reference to the Explanatory Memorandum

- a. Taxation of business profits based on economic allegiance has always been the underlying basis of existing international taxation rules.
- b. Physical presence was important only to the extent it represented the economic location.
- c. However with the present PE based concepts, nexus based on physical presence was being used as a proxy to regular economic allegiance of a non-resident.
- d. With the advancement of information and communication technology, new business models operating entirely in the digital platform has emerged.
- e. OECD under its BEPS Action Plan 1 has addressed this concern and this proposed amendment is step in that direction.

Amendment

1. **“Significant Economic Presence” in India**, shall also constitute “Business Connection”. **Significant Economic Presence** shall mean
 - a. 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 such amount as may be prescribed*; or

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- b. systematic and continuous soliciting of business activities or engaging in interaction *with such number of users as may be prescribed, in India* through digital means:
2. **Significant Economic Presence** shall apply whether or not the non-resident has a residence or place of business in India or renders services in India.
 3. So much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.
 4. The threshold of “revenue” and the “users” in India will be decided after consultation with the stakeholders
 5. It is also **clarified that** unless corresponding modifications to PE rules are made in the DTAAs, the cross-border business profits will continue to be taxed as per the existing treaty rules.

Author’s note

Example

1. In certain business models, customers are more frequently entering into ongoing relationships with service providers that extend beyond the point of sale.
2. This ongoing interaction generates network effects increasing the value of a particular business to other potential customers.
3. In case of a retail business operating through the website platform that enable the customer say customer “X” to review and tag their products, the interaction of customer “X” with the website can increase the value of website to another customer say customer “Y”.
4. This feature occurring on a large scale completely in the digital platform would lead to a situation where by one country would gain at the cost of the other, in the absence of principles of **Significant Economic Presence**.

12. Change in Presumptive Income rates of goods carriages – Amendment of Section 44AE

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With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Present scenario and reference to the Explanatory Memorandum

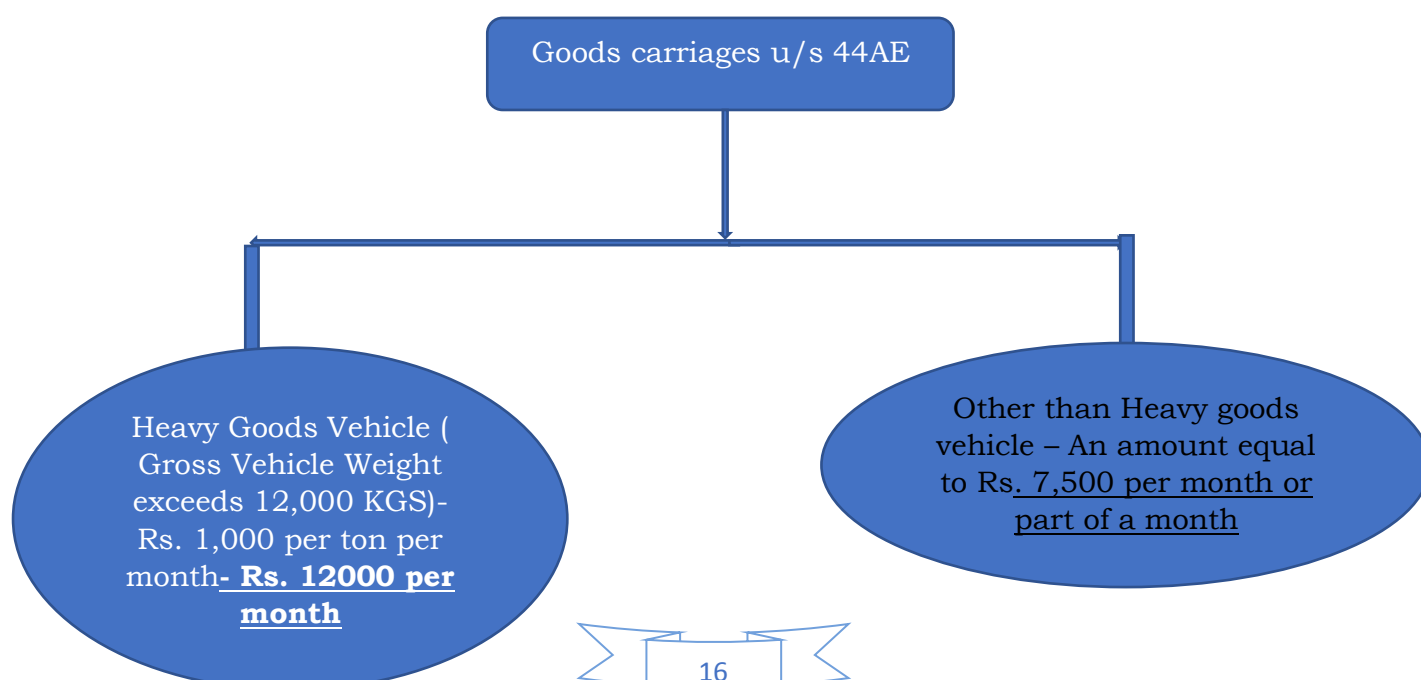
- a. The current presumptive income scheme is applicable at the rate of Rs. 7500 per month or part of a month for each goods carriage, uniformly to all classes of goods carriages irrespective of their tonnage capacity.
- b. The only condition was that the assessee should not have owned more than 10 goods carriages at any time during the previous year.
- c. The transporters owning less than 10 large capacity size goods carriages were also availing the benefit of Section 44AE.
- d. The legislative intent for introducing this provision was to give benefit to small transporters in order to reduce their compliance burden.
- e. Though the profit margins of large capacity goods carriage is higher, the tax consequences are similar which is against the principle of tax equity.

Amendment

In case of heavy goods vehicles (more than 12MT gross vehicle weight), the income would be deemed to be an amount equal to Rs. 1000 per ton of gross vehicle weight or unladen weight for every month or part of a month.

Author's note

The rates after the amendment would be as under



13. Taxation of Long-term capital gains in the case of Foreign Institutional Investor- Amendment of Section 115AD

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Present scenario and reference to the Explanatory Memorandum

- a. Long-term capital gains arising from transfer of long term capital asset being equity shares of a company or a unit of equity-oriented fund or unit of business trust, was exempt to FII u/s 10(38)
- b. Consequent to the proposed withdrawal of exemption u/0s 10(38), such long-term capital gains will become taxable in the case of FII's also.

Amendment

The FII's will also be liable to tax on such long-term capital gains at the rate of 10% for gains exceeding Rs. 1 Lakh.

14. Deduction in respect of income of Farm Producer Companies- Insertion of Section 80PA

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Present scenario and reference to the Explanatory Memorandum

- a. Section 80P provides for 100% deduction in respect of profit of cooperative society which provides assistance to its members engaged in primary agricultural activities.
- b. It is proposed to extend similar benefit to Farm Producer Companies (FPC).

Amendment

Farm Producer Companies, having a total turnover upto Rs. 100 Crore are eligible for 100% deduction in respect of gross total income which includes any income from

- a. The marketing of agricultural produce grown by its members
- b. the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
- c. the processing of the agricultural produce of its members

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15. Measures to promote start-ups- Amendment of Section 80-IAC

With effect from 01st April 2018 and will apply in relation to AY 2018-19 and subsequent years

Present scenario and reference to the Explanatory Memorandum

- a. Eligible start-ups were eligible for 100% deduction of profits for 3 consecutive AY's out of 7 years at the option of assessee if
- It is incorporated between 01st April 2016 to 31st March 2019
 - The total turnover does not exceed Rs. 25 Crore in any of the PY's 2016-17 to FY 2020-21
 - It is engaged in the eligible business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property
 - It holds a certificate from the Inter-Ministerial Board of the CG
- b. In order to improve the effectiveness of the scheme and to promote start-ups, this amendment is proposed.

Amendment

The above benefit of Section 80-IAC would apply to

- a. Start-ups incorporated from 01st April 2016 to 31st March 2021
- b. The turnover criterion not exceeding Rs. 25 Crore would apply to 7 previous years commencing from the date of incorporation.
- c. The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

Author's note

Many start-ups that are having a scalable business model but not driven by technology or intellectual property but with a high potential for employment generation would now be eligible for deduction u/s 80IAC.

The certificate from the Inter-Ministerial Board of the CG would continue to be required for claiming deduction.

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**16. Measures to promote International Financial Services Centre –
Amendment of Section 47, Section 115JC and Section 115JF**

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Amendment

In order to promote world class financial infrastructure in India, it is proposed to extend the following benefits to IFSC [in addition to those extended in FA 2016 , Point 27 of our Discussion Paper of 2016]

- a. Transactions in the following assets by a non-resident on a recognized stock exchange located in any IFSC shall not be regarded as transfer, if the consideration is paid or payable in foreign currency
 - Bond or Global Depository Receipt u/s 115AC
 - Rupee denominated bond of an Indian company or
 - Derivative
- b. In case of a unit located in IFSC, the alternate minimum tax u/s 115JC shall be charged at 9%
- c. Consequential amendment in Section 115JF is proposed.

17. Incentive for employment generation- Amendment of Section 80JJAA

With effect from 01st April 2019 and will apply in relation to AY 2019-20 and subsequent years

Present Scenario

Deduction of 30% for 3 AY's is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible employees who have been employed for a minimum of 240 days during the year.

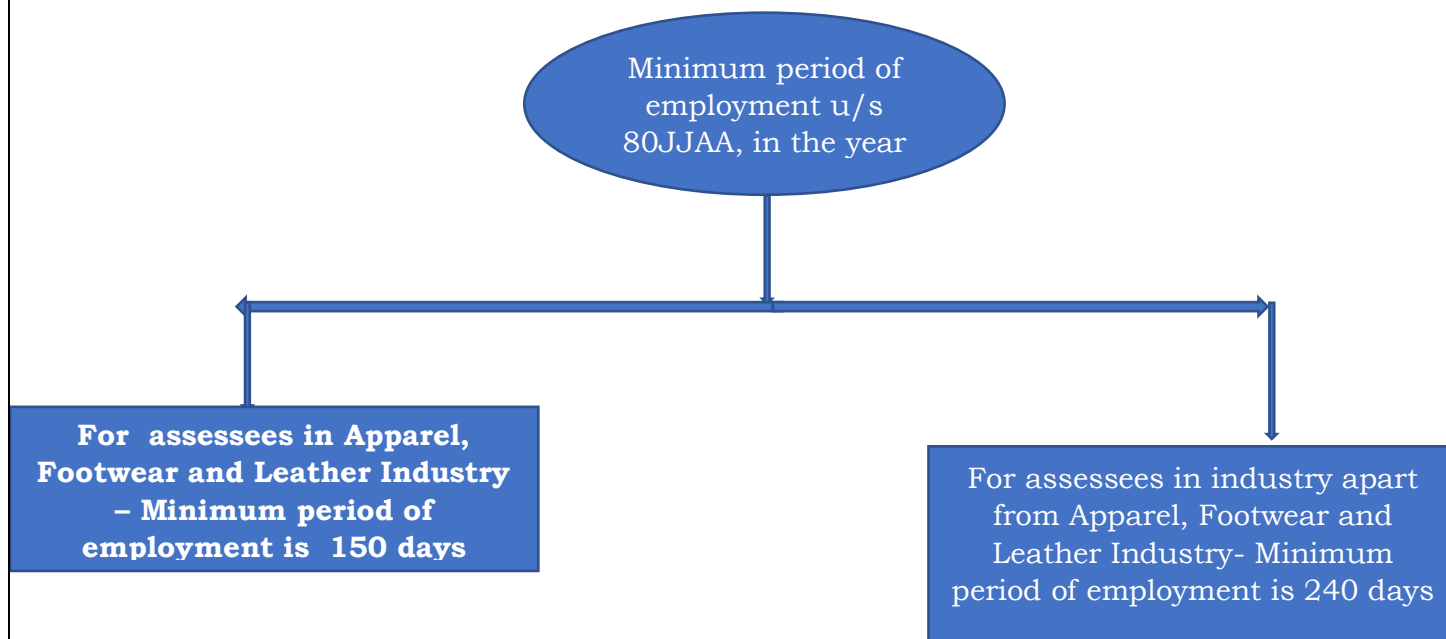
In case of apparel industry, this minimum period is reduced to 150 days.

Amendment

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1. The amended provisions are presented as under



2. The deduction is rationalized by allowing the benefit for a new employee who is employed for less than the minimum period during the first year, but continues to be employed for more than the minimum period in the subsequent years.

18. Relief from liability of Minimum Alternate Tax - Amendment of Section 115JB

With effect from 01st April 2001 and will apply retrospectively from AY 2001-02 and subsequent AY's

Present scenario and reference to the Explanatory Memorandum

- a. In computing the book profit, a deduction in respect of amount of loss brought forward or unabsorbed depreciation, *whichever is less as per books of account* is provided.
- b. When the loss brought forward or unabsorbed depreciation is **Nil**, no deduction is allowed.
- c. This non-deduction is a barrier to rehabilitating companies seeking insolvency resolution.

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Amendment

For a company whose application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating authority, **the aggregate amount of**

- Unabsorbed depreciation and
- Loss brought forward (excluding unabsorbed depreciation),

Shall be allowed as a reduction from the book profit.

Consequent to the admission of the application, the company assessee would henceforth be entitled to reduce the loss brought forward and unabsorbed depreciation.

Author's Note

This non-deduction was a barrier to rehabilitating companies seeking insolvency resolution where on the one hand relief is given while on the other hand, tax liability in the form of MAT gets fastened.

19. Benefit of carry forward and set off of losses – Amendment of Section 79

With effect from 01st April 2018 and will apply in relation to AY 2018-19 and subsequent years

Present scenario and reference to the Explanatory Memorandum

- a. Section 79 of Act provides that carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares carrying not less than 51 % of the voting power, on the last day of the year or years in which the loss was incurred.
- b. In case of a company seeking insolvency resolution under Insolvency and Bankruptcy Code 2016, it involves change in the beneficial owners of shares beyond the permissible limit u/s 79. This acts as a hurdle for restructuring and rehabilitation of such companies.

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Amendment

The rigors of Section 79 in case of such companies whose resolution plan has been approved under Insolvency and Bankruptcy Code 2016, would be relaxed, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

20. New Scheme for scrutiny assessment- Amendment of Section 143

With effect from 01st April 2018

Amendment

With a view to prescribe a new scheme for the purpose of making assessments so as to impart greater transparency and accountability, it is proposed

- to eliminate the interface between the AO and the assessee to the extent possible
- optimizing utilisation of resources through economies of scale and functional specialisation
- introducing a team-based assessment with dynamic jurisdiction

The above amendments are proposed in addition to certain procedural amendments.

21. Rationalisation of Provisions relating to Country-by-Country Reporting- Amendment of Section 286

With effect from 01st April 2017 and will apply retrospectively in relation to AY 2017-18 and subsequent years

Present scenario and reference to the Explanatory Memorandum

Section 286 contains provision relating to specific reporting regime in the form of CbCR report in respect of an international group. The following amendments are proposed to improve the effectiveness and reduce the compliance burden of such reporting.

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Amended Scenario

- a. The time allowed for furnishing the CbCR report by the parent entity or the Alternative Reporting Entity [ARE] , resident in India, is proposed to be extended to 12 months from the end of the reporting accounting year. *The report for the FY 2017-18 has to be filed within 31st March 2019.*
- b. The constituent entity resident in India, shall also furnish CbCR in case its parent entity outside India has no obligation to file the CbCR report. Certain clarificatory and explanatory amendments are also proposed.

Author's Note

The time frame for reporting are clarificatory in nature as the CBDT in October 2017 [Notification dated 31.10.2017] had mentioned the time frame for the different forms of reporting. The Form 3CEAA for FY 2016-17, has to be filed by 31st March 2018 in line with the notification issued by the CBDT in October 2017.

22. Amendments in relation to notified ICDS-Amendment of Section 40A, Section 43AA, Section 145A and Insertion of Section 43CB, Section 145B

With retrospective effect from AY 2017-18 and subsequent AY's

Present scenario and reference to the Explanatory Memorandum

- a. Section 145 empowers the CG to notify ICDS. Accordingly the CG had notified 10 such standards from AY 2017-18.
- b. These are applicable to all assesses (other than individual or HUF not subject to tax audit) having income under head "PGBP".
- c. Recent judicial pronouncements have raised doubts on the legitimacy of the notified ICDS.

Amendment

In order to regularise the compliance with the notified ICDS by a large number of taxpayers so as to prevent further inconvenience to them, amendments are

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proposed to be made to the above sections, the same not being discussed here as it would require an exclusive detailed discussion.

23. Other Amendments

- a. Benefit under Chapter VI A would not be allowed unless ROI is filed within time limit u/s 139(1)- *Amendment of Section 80AC*
- b. At the time of processing of ROI u/s 143(1), adjustment in respect of income appearing in Form26AS/Form 16/Form 16A would be made, if the same has not been included in computing the income in ROI. It is proposed to restrict the aforesaid adjustment in respect of ROI filed for FY 2017-18 and subsequent years.

24. Rates of Tax and arrival of Health and Education Cess

The rates of tax and the basic exemption limit as applicable for FY 2017-18 would continue to apply without any changes to FY 2018-19.

In place of the “Education Cess” at 2% , “Secondary and Higher Education Cess” at 1%, a new cess named as “**Health and Education Cess**” is proposed to be levied at 4% of income-tax including surcharge. The revenue to the CG from the “**Health and Education Cess**” is expected to be approximately Rs. 11,000 Crores.

=====The End=====

*Thank
you*



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