Tax Rates and Tax Tables

1. Tax Rates

The proposed tax rates for the next financial year 2018-19 are given in following tables.

The rate of tax in case of every individual whether he is below the age of 60 years, or between the age of 60 or 80 years, or above the age of 80 years.

Male Resident			
Net Income Range		Income-tax Rate*	
		AY 2019-20	AY 2018-19
1	Upto Rs. 2,50,000	Nil	Nil
2	Rs. 2,50,000 to Rs. 5,00,000	5%	5%
3	Rs. 5,00,000 to Rs. 10,00,000	20%	20%
4	Above Rs. 10,00,000	30%	30%

A resident individual, whose taxable income does not exceed Rs. 3,50,000, can claim a tax rebate under section 87A. The amount of rebate shall be lower of 100% of income-tax or Rs. 2,500.

Female Resident			
Net Income Range		Income-tax Rate*	
		AY 2019-20	AY 2018-19
1	Upto Rs. 2,50,000	Nil	Nil
2	Rs. 2,50,000 to Rs. 5,00,000	5%	5%
3	Rs. 5,00,000 to Rs. 10,00,000	20%	20%
4	Above Rs. 10,00,000	30%	30%

A resident individual, whose taxable income does not exceed Rs. 3,50,000, can claim a tax rebate under section 87A. The amount of rebate shall be lower of 100% of income-tax or Rs. 2,500.

Senior Citizen			
(who is 60 years or more at any time during the previous year)			
	Net Income Range	**Income-tax Rate***	
		AY 2019-20	**AY 2018-19**
1	Up to Rs. 3,00,000	Nil	Nil
2	Rs. 3,00,000 to Rs. 5,00,000	5%	5%
3	Rs. 5,00,000 to Rs. 10,00,000	20%	20%
4	Above Rs. 10,00,000	30%	30%

A resident individual, whose taxable income does not exceed Rs. 3,50,000, can claim a tax rebate under section 87A. The amount of rebate shall be lower of 100% of income-tax or Rs. 2,500.

Super Senior Citizen			
(who is 80 years or more at any time during the previous year)			
	Net Income Range	**Income-tax Rate***	
		AY 2019-20	**AY 2018-19**
1	Up to Rs. 5,00,000	Nil	Nil
2	Rs. 5,00,000 to Rs. 10,00,000	20%	20%
3	Above Rs. 10,00,000	30%	30%

** The above rate are exclusive of Surcharge and Cess.*

The rate of tax in case of every business entities whether it is a firm, local authority, or domestic company, or even foreign company:-

Business Entities		
Net Income Range	Income-tax Rate#	
	AY 2019-20	AY 2018-19
Firms/Local Authority	30%	30%
Domestic Company	30%**	30%*
Foreign Company	40%	40%
** Tax rate is 25% if turnover or gross receipts in the previous year 2016-17 doesn't exceed Rs. 250 Crores. * Tax rate is 25% if turnover or gross receipts in the previous year 2015-16 doesn't exceed Rs. 50 Crores.		

[#] *The above rate are exclusive of Surcharge and Cess.*

The rate of tax in case of co-operative societies:-

Co-operative Society			
Net Income Range		Income-tax Rate*	
		AY 2019-20	AY 2018-19
1	Up to Rs. 10,000	10%	10%
2	Rs. 10,000 to Rs. 20,000	20%	20%
3	Above Rs. 20,000	30%	30%

* *The above rate are exclusive of Surcharge and Education Cess.*

The rate of Surcharge for every taxpayer are as follows:-

Taxpayer	*Rate of Surcharge	
	AY 2019-20	AY 2018-19

	Range of Income			Range of Income		
	Rs. 50 Lakhs to Rs. 1 Crore	Rs. 1 Crore to Rs. 10 Crores	Exceeding Rs. 10 Crores	Rs. 50 Lakhs to Rs. 1 Crore	Rs. 1 Crore to Rs. 10 Crores	Exceeding Rs. 10 Crores
Individuals/HUF	10%	15%	15%	10%	15%	15%
Firm/ Local Authority	Nil	12%	12%	Nil	12%	12%
Domestic Company	Nil	7%	12%	Nil	7%	12%
Foreign Company	Nil	2%	5%	Nil	2%	5%
Co-operative Societies	Nil	12%	12%	Nil	12%	12%

*The health & education cess at the rate of 4% shall be computed on aggregate of Income-Tax and Surcharge.

Tax Rates* for Corporate Assessee for the A.Y. 2019-20		
Status of Taxpayer		**Rates of income-tax**
1	Firms/Local Authority	30%
2	Domestic Company	30%/25%[#]
3	Foreign Company	40%
[#] Tax rate is 25% if turnover or gross receipts of the domestic company in the previous year 2016-17 doesn't exceed Rs. 250 crore		

The above rates are exclusive of surcharge and cess.

Tax Rates* for Co-operatives Societies for the A.Y. 2019-20	
Income	Rates of income-tax

1	Up to Rs. 10,000	10%
2	Rs.10,000 – Rs.20,000	20%
3	Above Rs. 20,000	30%

**The above rates are exclusive of surcharge and cess.*

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*Rates of Surcharge			
Particulars	Taxable Income		
	50 Lacs to 1 Crore	1 Crore to 10 Crores	Exceeding 10 Crores
Individuals/HUF	10%	15%	15%
Firm/ Local Authority/ Co-operative Society	Nil	12%	12%
Domestic Company	Nil	7%	12%
Foreign Company	Nil	2%	5%
Co-operative Societies	Nil	12%	12%

* ***The health & education cess*** *at the rate of* ***4%*** *shall be computed on aggregate of Income-Tax and Surcharge.*

2. The amount of tax payable by different individuals at different income range:

Tax Table							
Sr. No.	Taxable Income	Resident Individual		Resident Senior Citizen		Resident Super Senior Citizen	
		2019-20	2018-19	2019-20	2018-19	2019-20	2018-19
1.	2,50,000	-	-	-	-	-	-

2.	3,00,000	-	-	-	-	-	-
3.	3,50,000	2,600	2,575	-	-	-	-
4.	4,00,000	7,800	7,725	5,200	5,150	-	-
5.	5,00,000	13,000	12,875	10,400	10,300	-	-
6.	7,50,000	65,000	64,375	62,400	61,800	52,000	51,500
7.	10,00,000	1,17,000	1,15,875	1,14,400	1,13,300	1,04,000	1,03,000
8.	15,00,000	2,73,000	2,70,375	2,70,400	2,67,800	2,60,000	2,57,500
9.	25,00,000	5,85,000	5,79,375	5,82,400	5,76,800	5,72,000	5,66,500
10.	50,00,000	13,65,000	13,51,875	13,62,400	13,49,300	13,52,000	13,39,000
11.	1,00,00,000	32,17,500	31,86,563	32,14,640	31,83,730	32,03,200	31,72,400
12.	1,05,00,000	35,43,150	35,09,082	35,40,160	35,06,120	35,28,200	34,94,275
13.	2,00,00,000	69,51,750	68,84,907	69,84,760	68,81,945	69,36,800	68,70,100

Capital Gains

3. No more exemption for the capital gains arising from listed equity shares

[Section 10(38), 112A – Applicable from Assessment Year 2019-20]

Currently, long term capital gains arising from transfer of listed equity shares or units of equity oriented fund or units of business trusts, are exempt from income-tax under Section 10(38) of the Act. In order to minimize the economic distortions and curb erosion of tax base, it is proposed to withdraw this exemption and to introduce a new section 112A in the Act.

As per new proposed Section 112A, long term capital gains arising from transfer of an equity share, or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% of such capital gains. The tax on capital gains shall be levied in excess of Rs. 1 lakh. This concessional rate of 10% will be applicable if STT has been paid on both acquisition and transfer of such capital asset, in case of equity shares, and paid at the time of transfer in case of unit of equity oriented fund or a unit of a business trust.

Though the tax rate has been kept at 10% but it shall be charged on the capital gains as computed without giving the benefit of indexation to the investor. Let us understand the meaning of indexation. It is a process to increase the cost of acquisition so as to nullify the impact of inflation. The indexation process takes into account the inflation from the time taxpayer bought the asset to the time he sells it. The indexation process increases the cost of acquisition of the asset and consequently, lowers the capital gains. The indexation benefit is generally allowed in case of transfer of a long-term capital asset, however, such benefit shall not be allowed in case of transfer of listed equity shares.

This new provision to tax the long-term capital gains arising from transfer of listed equity shares shall be applicable for all those share trades which are done on or after April 1, 2018. To provide an interim relief and to provide an opportunity to the investors to plan their affairs, the investors are given an option to assume the cost of acquisitions of the shares forming part of their portfolio different from the one they have actually paid to acquire them.

The cost of acquisitions of a listed equity share acquired by the taxpayer before the February 1, 2018, shall be deemed to be the higher of following:

a) The actual cost of acquisition of such asset; or

b) Fair market value of such shares or actual sales consideration accruing on its transfer, whichever is lower.

The Fair market value of listed equity share shall mean its highest price quoted on the stock exchange on January 31, 2018. However, if there is no trading in such shares on such exchange on January 31, 2018, the highest price of such asset on such exchange on a date immediately preceding January 31, 2018.

While in case of units which are not listed on recognized stock exchange, the net asset value of such units as on January 31, 2018 shall be deemed to be its FMV.

Let's understand the new provisions with some examples of trading in listed equity shares.

Particulars	**Scenario 1**	**Scenario 2**	**Scenario 3**	**Scenario 4**	**Scenario 5**
Sales Consideration (A)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Date of Sale	31-03-18	01-04-18	01-04-18	01-04-18	01-04-19
Actual Cost of Acquisition (B)	800,000	800,000	800,000	800,000	800,000
Date of Purchase	01-01-17	01-01-17	01-01-17	01-01-17	01-03-18
Quoted Price on Stock Exchange as on 31/01/2018 (C)	850,000	750,000	900,000	1,100,000	1,100,000
Deemed Cost of Acquisition (D)*	800,000	800,000	900,000	1,000,000	800,000
Long-term Capital Gains (E = D-A)	200,000	200,000	100,000	-	200,000

Exemption for Capital Gains (F = E - 1,00,000)	200,000	100,000	100,000	-	100,000
Tax on Capital Gains (F * 10%)	-	10,000	-	-	10,000

* D shall be higher of following:

a) Actual Cost of acquisition

b) Lower of Sales Consideration and Quoted Price on Stock Exchange as on 31/01/2018

This capital gain has been kept out of preview of Chapter VIA deductions and relief under Section 87A. It means a taxpayer cannot claim any deduction under Sections 80C to 80U or relief under Section 87A from the gross total income to the extent of such capital gains. If an investors has earned the long-term capital gains of Rs. 2,00,000 from sale of listed equity shares, he shall be liable to pay tax of Rs. 10,400 (Rs. 10,000 tax on capital gains + Rs. 400 health and education cess).

4. Slight variation of sales consideration from stamp value is acceptable

[Section 43CA, 50C and 56 – Applicable from Assessment Year 2019-20]

As per the current provisions, when a taxpayers claims that the sales consideration received by him from transfer of an immovable property is less than the value adopted by the Stamp authorities, then the stamp value is deemed as the actual sales consideration. Deeming the stamp value as the sales consideration result in higher amount of capital gains even if the seller has not gained anything due to such higher stamp valuation. Further, such difference in the stamp value and the actual consideration disclosed by the parties is also taxed in the hands of the buyer.

It is generally pointed out that this variation can occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location. In order to minimize hardship in case of genuine transactions in the real estate sector, it is proposed to provide that no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than five percent of the sale consideration. These amendments will be applicable for all transactions occurred entered into on or after April 1, 2018.

5. Sec. 54EC exemption only for immovable properties

[Section 54EC – Applicable from Assessment Year 2019-20]

Section 54EC of the Act provides exemptions up to Rs. 50 lakhs if any long-term capital gain is invested in the specified bonds of NHAI and RECL within a period of six months after the date of such transfer. Such investments in these bonds have a lock-in period of 3 years.

The Finance Bill has significantly curtailed the scope of this exemption. As per proposed amendment, exemption under Section 54EC shall be allowed only if long-term capital gains arising from transfer of an immovable property (land or building or both) is invested in the specified bonds. The lock-in period of such bonds has also been increased to 5 years.

6. Beneficial tax regimes for International Financial Services Centre (IFSC)

[Section 47 – Applicable from Assessment Year 2019-20]

In order to promote the development of world class financial infrastructure in India, it is proposed to amend the section 47 of the Act, to provide exemption for the capital gains arising from transactions entered into by a non-resident on a recognized stock exchange located in any IFSC, if the consideration is paid or payable in foreign currency for the bonds or GDRs, Rupee Denominated Bonds of an Indian company or Derivatives.

Corporate Tax

7. Measures to curb strategies used by MNCs for artificial avoidance of PE

[Section 9 – Applicable from Assessment Year 2019-20]

Two amendments have been proposed in Section 9. The first proposed amendment is substitution of clause (a) in Explanation 2 to Section 9(1)(i) which defines the meaning of 'business connection'. Such amendment is proposed in view of recommendation of Action Plan 7 of BEPS report. This Action Plan proposes measure to curb the practice of multi-national companies of artificially avoiding the PE in source state through commissionaire arrangements. The background of the loophole in existing provision and rationale behind such amendment is explained below.

a) **Commissionaire Arrangements:** A 'Commissionaire Arrangement' is defined as an arrangement through which a person sells products in a given State in its own name but on behalf of a foreign enterprise who is the owner of the products. Through such an arrangement, a foreign enterprise is able to sell its products in a State without having a PE to which such sales may be attributed for tax purposes. Since the person that concludes the sales does not own the products, he cannot be taxed on the profits derived from such sales and may only be taxed on the remuneration that he receives for the services (usually a commission).

b) **Loophole under Para 5 of Article 5 of India's DTAA**: Para 5 of Article 5 of India's DTAAs which talks about the constitution of PE *via* dependent agent provides that an enterprise is deemed to have agency PE only if a person acting in its behalf habitually exercises authority to conclude contracts in name of enterprise. It is clear that to constitute an agency PE, contract must be concluded in the name of the enterprise.

To take benefit of this loophole, enterprise enters into a 'commissionaire arrangements' with the intermediaries who sells products in a given State in its own name instead of its actual owner (*i.e.* the foreign enterprise) which eventually erodes the taxable base of the State where sale takes place.

Further, in many cases, the person acting on the behalf of the non-resident, negotiates the contract but does not conclude the contract.

c) **BEPS recommendation to address the above loophole**: The OECD under BEPS Action Plan 7 reviewed the definition of 'PE' with a view to prevent the avoidance of payment of tax by circumventing the existing PE definition by way of commissionaire arrangements. The BEPS Action plan 7 recommended modifications to para (5) of Article 5 to provide that an agent would include not only a person who habitually concludes contracts on behalf of the non-resident, but also a person who habitually plays a principal role leading to the conclusion of contracts:

(i) in the name of the enterprise; or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

(iii) for the provision of services by that enterprise

d) India's action on BEPS recommendations: The recommendations under BEPS Action Plan 7 have been included in Article 12 of Multilateral Convention to Implement Tax Treaty Related Measures (herein referred to as 'MLI'), to which India is also a signatory. Consequently, these provisions will automatically modify India's bilateral tax treaties covered by MLI, where treaty partner has also opted for Article 12.

As a result , the Article 5(5) of India's tax treaties, as modified by MLI, shall become wider in scope than the current provisions in *Explanation* 2 to Section 9(1)(i) of the Income-tax Act.

e) Corresponding amendment proposed to section 9: Since, in the instant situations, the provisions of the domestic law being narrower in scope are more beneficial than the provisions in the DTAAs. It is proposed to amend the provision of section 9 of the Act so as to align them with the provisions in the DTAA as modified by MLI so as to make effective the provisions of treaties. Accordingly, Section 9(1)(i) has been proposed to be amended to provide that 'business connection' shall also include any business activities carried through a person who, acting on behalf of the non-resident, habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are:

(i) in the name of the non-resident; or

(ii) 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

(iii) for the provision of services by that non-resident.

8. Taxability of digital transactions on principles of Significant Economic Presence

[Section 9 – Applicable from Assessment Year 2019-20]

Two amendments have been proposed in Section 9. The second proposed amendment is insertion of a new Explanation 2A to Section 9(1)(i) which expands the scope of meaning 'business connection'. As per new Explanation, the Significant Economic Presence of non-resident entities in India shall be deemed as business connection in India. Such insertion of a new Explanation enables Govt. to levy tax on dot com companies who have digital presence in India without any physical presence. Such amendment also makes it possible for the Govt. to renegotiate the provisions of treaty so as to include the similar provisions in the bilateral treaties on line of recommendation of Action Plan 1 of BEPS report.

a) Tax on Business Profits of non-residents: As per the allocation of taxing rules under Article 7 of DTAAs, business profit of an enterprise is taxable in the country in which the taxpayer is a resident. If an enterprise carries on its business in another country through a PE situated therein, such other country may also tax the business profits attributable to the PE.

b) **Meaning of 'Permanent Establishment':** It means a 'fixed place of business' through which the business of an enterprise is wholly or partly carried out provided that the business activities are not of preparatory or auxiliary in nature and such business activities are not carried out by a dependent agent.

c) **Is definition of PE outdated:** For a long time, nexus based on physical presence was used as a proxy to regular economic allegiance of a non-resident. With advancement in information and communication technology, new business models operating remotely through digital medium have emerged, wherein the non-resident enterprises interact with customers in another country without having any physical presence in that country. Therefore, the existing nexus rule based on physical presence do not hold good anymore for taxation of business profits in source country. As a result, the rights of the source country to tax business profits that are derived from its economy is unfairly and unreasonably eroded.

d) **Definition of Business Connection is outdated:** Explanation 2 to Section 9(1)(i) which defines the term 'business connection' is narrow in its scope as it limits the taxability of certain activities or transactions of non-resident to those carried out through a dependent agent. Therefore, emerging business models such as digitized businesses, which do not require physical presence of itself or any agent in India, is not covered within the scope of Section 9(1)(i).

e) **What BEPS Action Plan 1 suggests:** OECD in its BEPS Action Plan 1 addressed the tax challenges in a digital economy wherein it has discussed several options to tackle the direct tax challenges arising in digital businesses. One such option is a new nexus rule based on "significant economic presence". As per the Action Plan 1, a non-resident enterprise would create a taxable presence in a country if it has a significant economic presence in that country on the basis of factors that have a purposeful and sustained interaction with the economy by the aid of technology and other automated tools. It is further recommended that revenue factor may be used in combination with the aforesaid factors to determine 'significant economic presence'.

f) **What is the proposed amendment:** It is proposed that 'significant economic presence' in India shall also constitute 'business connection'. Significant Economic Presence shall mean:

(i) Any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or

(ii) Systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

It is also proposed that only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India.

It is further proposed that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.

It is 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.

9. 'Accumulated Profits' redefined for purpose of Deemed Dividend

[Section 2(22)(d) – Applicable from Assessment Year 2019-20]

Currently, any distribution of accumulated profits (whether capitalized or not) to the shareholders by a company is subject to Dividend Distribution Tax. Companies with large accumulated profits used to adopt the amalgamation route to reduce accumulated profits so as to bypass the provisions of deemed dividend under Section 2(22)(d).

With a view to prevent such abusive arrangements, a new Explanation 2A is proposed to be inserted in section 2(22) to widen the scope of the term 'accumulated profits'.

As per the new Explanation, the accumulated profits/losses of an amalgamated company shall be increased by the accumulated profits of the amalgamating company (whether capitalized or not) on the date of amalgamation.

10. Dividend payouts of equity oriented mutual fund subject to DDT

[Section 115R, 115T – Applicable from Assessment Year 2018-19]]

Specified company or Mutual Fund shall be liable to pay tax on income distributed to its unit holders. However, in respect of any income distributed to a unit holder of equity oriented funds is currently not chargeable to Dividend Distribution Tax.

It is proposed to amend the section 115R to provide that where any income is distributed by a Mutual Fund, being an equity oriented fund, the fund shall be liable to pay additional income tax at the rate of 10% on income so distributed.

11. Relaxation in provisions of carry forward and set off of losses for companies applied for Insolvency

[Section 79 – Applicable from Assessment Year 2018-19]

Losses of a closely held company are allowed to be carried forward and set off only if there is a continuity in the beneficial ownership of not less than 51% of the voting power on the last day of the year in which losses were incurred.

This provision is a big hurdle for restructuring and rehabilitating the companies who have applied for insolvency and who have witnessed change in the beneficial ownership.

In order to address this problem, it is proposed that the rigors of section 79 shall be relaxed in case of those companies whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016.

12. Relief from MAT for companies who have applied for Insolvency

[Section 115JB – Applicable from Assessment Year 2018-19]

While calculating book profit for payment of MAT under Section 115JB, lower of brought forward loss and unabsorbed depreciation, is allowed as deduction. The amount of deduction becomes *nil* if either brought forward loss or unabsorbed depreciation is also nil.

Not allowing deduction for losses or depreciation does not provide any tax relief to the rehabilitating companies that are seeking insolvency resolution.

To end the hardship for the companies under insolvency resolution, Section 115JB is proposed to be amended. Such companies are allowed to claim deduction of both unabsorbed depreciation and brought forward losses while calculating book profits for the purpose of MAT.

13. Amendments vis-à-vis ICDS

[Section 36, 40A, 43AA, 43CB, 145A, 145B – Applicable retrospectively from Assessment Year 2017-18]

A close look on the amendments proposed would show that the tax administration has convinced the Government of the dire need to standardize the accounting practices to plug the possible leakage of tax revenue. The Government seems to have heeded to the administration *vis-a-vis* 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)*.

A glance of the amendments proposed, which would solemnize the provisions contained in ICDS:

a) **Marked to market losses:** ICDS – I provides for not allowing marked to market loss or expected loss while computing income under the head "profits and gains of business or profession" unless such loss is recognized in accordance with the provisions of any other ICDSs.

The Finance Bill, 2018 proposes to insert section 36(1)(xviii), which provides that any marked to market loss or other expected loss as computed in accordance with the ICDS shall be allowed as deduction. Corresponding amendment is proposed to section 40A(13) which specified that no deduction or allowance is allowed in respect of any marked to market loss or other expected loss, except as allowable under section 36(1)(xviii).

b) **Foreign currency gains or losses:** ICDS –VI provides for giving effect to the changes in foreign exchange rates on the closing date and recognize the loss or gain irrespective of whether such change is on the loan taken for capital purposes.

The Finance Bill, 2018 proposes to insert section 43AA where it gives weightage to ICDS –VI by stating that any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss. For the purpose of calculating gains or loss, foreign currency transaction includes:

i. Monetary items and non-monetary items;

ii. Translation of financial statements of foreign operations;

iii. Forward exchange contracts;

iv. Foreign currency translation reserves.

c) **Construction contracts:** ICDS – III deals with taxation of construction contracts and provides for taxing the retention money which is contrary to judicial decision.

The Finance Bill, 2018 proposes to recognize whatever is contained in ICDS-III as valid by inserting section 43CB which says that the 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).

However, section 43CB will not apply to following contracts:

(i) Where duration of contract is not more than 90 days for which the income shall be determined on the basis of project completion method;

(ii) Which involves indeterminate number of acts over a specified period of time and the income has to be determined on the basis of straight line method.

Section 43CB(2) provides for taxation of retention money and non-reduction of contract cost by incidental incomes in the nature of interest, dividend or capital gains.

d) **Revenue Recognition:** ICDS – IV dealing with revenue recognition provides for taxing export incentives when the ultimate collection is reasonably certain. This is contrary to the apex court decision in the case of *CIT v. Excel Industries Ltd. [2013] 38 taxmann.com 100*.

The Finance Bill, 2018 proposes to insert a new section 145B to tax the export incentives as income of the previous year in which reasonable certainty of its realization is achieved.

A new section 145B is also proposed by the Finance Bill to provide that the 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

e) **Valuation of Inventory:** ICDS – II deals with valuation of inventory and in the event of dissolution of firm and continuation of business by surviving partners the inventory is valued at cost or market price whichever is less by relying on the decision of the Supreme Court in the case of *Sakthi Trading Co v. CIT (2001) 250 ITR 871 / 118 Taxman 301 (SC).*

The Finance Bill, 2018 proposes necessary amendment in Section 145(2), and provides that the valuation of inventory shall be made at lower of cost or net realizable value in accordance with ICDS.

14. No-deferment of tax on conversion of stock-in-trade into capital asset

[Section 2(24), 2(42A), 28, 49 – Applicable from Assessment Year 2019-20]

There were not any defined provisions with respect to taxability in case of conversion of stock-in-trade into capital asset.

Necessary amendments had been brought up to provide symmetrical tax treatment on converting the inventory into capital asset. Following amendments have been proposed:

a) 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.

b) 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.

These amendments will take effect, from 1st April, 2019 and will, accordingly apply from assessment year 2019-20 and onwards.

15. Non-Individual entity to obtain PAN

[Section 139A – Applicable from Assessment Year 2018-19]

Section 139A is proposed to be amended that 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.

There is always a natural person who enters into the transaction on behalf of the non-individual entity. Therefore, the amendment shall be of no use if the related natural person behind such entities doesn't obtain the PAN.

Thus, in order to make the amendment useful, it is also proposed that the managing director, director, partner, trustee, author, founder, karta, CEO, principal officer or office bearer or any person competent to act on behalf of such entities will also have to apply for allotment of PAN.

16. Compensation covered within the tax ambit

[Section 2(24), 28, 56 – Applicable from Assessment Year 2019-20]

In various rulings, the Courts have held that compensation amount received in connection with business and employment contracts are out of the purview of income-tax.

It is now proposed that any compensation received in connection with the termination or modification of a contract is taxable. The taxability of the compensation would depend upon nature of contract and relationship of the recipient with the payer. If the compensation is related to a business contract, the receipts shall be taxable as business income under Section 28. If it is relating to the employment and the compensation is received after termination of the employment, the receipts shall be taxable as residuary income under Section 56.

These amendments will take effect from 1st April, 2019 and will, accordingly, apply in relation to assessment year 2019-20 and onwards.

17. Rationalization of Taxation provisions for Start-ups

[Section 115BA – Applicable retrospectively from Assessment Year 2017-18]

As per Section 115BA, a domestic company can opt to pay tax at the rate of 25% if they are engaged in the business of manufacturing or production of any article or doing research in relation thereto.

There have been disputes and uncertainty on the taxability of other income earned by these start-ups. Whether other income of such entities are taxable at the rate of 25% or as per other applicable rates.

The Finance Bill provides a retrospective clarificatory amendment (effective from 01st April, 2017) that the beneficial rate of taxation of 25% is available only in respect of income arising from the business operations of manufacturing, production, etc.

18. Rationalizing provisions of tax neutral transfer

[Section 56 – Applicable from Assessment Year 2019-20]

Section 47(iv) and 47(v) facilitates tax-free transfer of capital assets or money between wholly owned subsidiary and its holding company. However, these transactions are often subject matter of disagreement between taxpayers and tax dept. Tax officers generally argue to treat these transactions as gifts under Section 56 which was creating an undue hardship for the Cos.

Thus it is proposed to amend section 56 so as to exclude the transfer of capital asset or money between a wholly owned subsidiary company and its holding Company out of ambit of residuary income.

Accordingly, the transaction without consideration between wholly owned subsidiary and its holding company is not subject to tax.

19. AMT chargeable at the rate of 9% instead of 18%

[Section 115JC, 115JF – Applicable from Assessment Year 2019-20]

In order to promote the development of world class financial infrastructure in India, it is proposed to amend the section 115JC so as to provide that in case of a unit located in an IFSC which derives its income solely in convertible foreign exchange, the rate of AMT under section 115JF shall be at the rate of 9% instead of existing rate of 18.50%.

20. Extension of due date for Country by Country Reporting (CbCR)

[Section 286 – Applicable retrospectively from Assessment Year 2017-18]

Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. Based on model legislation of Action Plan 13 of BEPS report of OECD following amendments are proposed so as to improve the effectiveness and reduce the compliance burden of such reporting:

a) The time allowed for furnishing the CbCR, in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to 12 months from the end of reporting accounting year;

b) Constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report in the latter's country or territory;

c) The time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be 12 months from the end of reporting accounting year

d) The due date for furnishing CbCR by the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory.

21. Exemption to Foreign Company from sale of leftover stock of crude oil on termination of agreement

[Section 10(48B) – Applicable from Assessment Year 2019-20]

Exemption under section 10(48B) is available to a foreign company on account of sale of leftover stock of crude oil after the expiry of the agreement or arrangement subject to such conditions as may be notified by the Central Government.

The benefit of exemption is presently not available on sale out of the leftover stock of crude in case of termination of the said agreement.

As these Foreign Companies benefitting India by augmenting its strategic petroleum reserves, it is proposed to amend section 10(48B) to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein.

22. Non applicability of MAT in case Foreign Companies opt for presumptive taxation

[Section 10(48B) – Applicable from Assessment Year 2019-20]

A clarificatory amendment is proposed to the provisions of MAT under Section 115JB that the provisions of section 115JB of the Act shall not be applicable to a foreign company if its total income comprises consists only profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB.

23. Trading in agricultural commodity derivatives are not speculative transaction

[Section 43(5) – Applicable from Assessment Year 2019-20]

As per Sec. 43(5)(e), trading in commodity derivatives carried out through a recognised stock exchange shall be treated as non-speculative transaction, if the same is chargeable to commodity transaction tax.

It is noteworthy here that agricultural commodity derivatives are out of the purview of Commodity Transaction Tax (CTT). Thus trading in agricultural commodity derivatives are treated as speculative transactions.

The Finance Bill, 2018 proposes to amend section 43(5) to provide that transaction in agricultural commodity derivatives done through a registered stock exchange or registered association would be treated as non-speculative transaction even if the same is not chargeable to CTT.

24. Disallowance of expenditure paid in cash by Trusts

[Section 10(23C), Section 11 – Applicable from Assessment Year 2019-20]

Currently, there are no restrictions on mode of payments by charitable or religious trusts or institutions. There are also no checks on whether such trusts or institutions follow TDS provisions or not. This has led to lack of an audit trail for verification of application of income.

In order to encourage a cash-less economy and to reduce the generation and circulation of black money, it is proposed that trusts or institutions will also be required to follow the provisions of TDS and will make all expenses in excess of Rs. 10,000 through banking channels.

Consequently, the provisions of TDS disallowance under section 40(a)(ia) and expenses disallowance under section 40A(3) and 40A(3A) shall be applicable while computing the application of income in case of trusts or institutions.

25. Royalty and FTS payments by NTRO to a non-resident is exempt from tax

[Section 10(6D) – Applicable from Assessment Year 2018-19]

Section 195 requires a person to deduct TDS at the time of payment or credit of income taxable in hands of a non-resident.

It is proposed that the income arising to non-resident by way of royalty or fees for technical services from services rendered to National Technical Research Organization ('NTRO') will be exempt from tax in India. Therefore, NTRO will not be required to deduct tax at source on such payments.

Personal Taxation

26. Standard deduction from salary income reintroduced

[Section 16, 17 – Applicable from Assessment Year 2019-20]

The Finance Bill, 2018 proposed standard deduction of up to Rs. 40,000 to the salaried taxpayers. Such deduction is allowed in lieu of transport allowance and reimbursement of medical expenses. Currently, a deduction of Rs. 19,200 is allowed from salary income in respect to transport allowance and Rs. 15,000 for the medical reimbursement.

Hence, the net benefit for the employees already claiming deduction for transport allowance and medical reimbursement will be just Rs. 5,800 (Rs. 40,000 - Rs. 19,200 - Rs. 15,000).

27. Rationalization of presumptive taxation scheme in case of goods carriage

[Section 44AE – Applicable from Assessment Year 2019-20]

A taxpayers who is engaged in the business of plying, hiring or leasing of Goods Carriage and having not more than 10 good carriage, has an option to avail presumptive taxation scheme under section 44AE. In this case, income of taxpayer is deemed to be Rs. 7,500 per goods carriage per month.

The only condition which needs to be fulfilled is that the taxpayer should not have owned more than 10 goods carriages at any time during the previous year. Accordingly, the big transporters who owns large capacity/ size goods carriages, even if number is less than 10, are also availing the benefit of section 44AE.

The legislative intent of introducing this provision was to give benefit to small transporters in order to reduce their compliance burden.

Therefore, it is proposed to amend the section 44AE to provide that, in the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would deemed to be an amount equal to Rs. 1,000 per ton of gross vehicle weight or unladen weight per month for each goods vehicle The vehicles other than heavy goods vehicle will continue to be taxed as per the existing scheme.

28. No adjustment under section 143(1) on account of mismatch with Form 26AS

[Section 143 – Applicable from Assessment Year 2018-19]

Section 143(1)(a)(vi) provides that while processing the return of income, the total income or loss shall be computed after making addition for the difference in income appearing in Form 26AS or Form 16A or Form 16 and income shown in the ITR. Generally, salaried taxpayers are mostly aggrieved by this adjustments.

It is now proposed that 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 tax passbook or tax certificates.

29. NPS withdrawal exemption extended to non-employees

[Section 10(12A) – Applicable from Assessment Year 2019-20]

Any amount received by employee from National Pension Scheme (NPS) either on closure or opting out from scheme is exempt upto 40% of the total amount payable to employee. This exemption is not available to non-employee subscriber. It is proposed to extend the said benefit to all NPS subscribers.

30. Deemed dividend isn't taxable in hands of receivers

[Section 115-O, 115Q – Applicable from Assessment Year 2019-20]

Deemed dividend as specified in section 2(22)(e) were kept out of the ambit of Dividend Distribution Tax (DDT). Therefore, the deemed dividend as arising from payment of loan by closely held companies are taxable in the hands of the shareholders.

The taxability of deemed dividend in the hands of recipient has posed serious problem of collection of the tax liability and has also been the subject matter of extensive litigation.

Now it is proposed to bring deemed dividends also under the scope of dividend distribution tax. Therefore, companies are now liable to pay DDT on the deemed dividend.

The tax at the rate of 30% is proposed on such deemed dividend in order to prevent camouflaging of dividend in various ways such as loans or advances.

31. No deduction of exp. even if unexplained income is determined by Assessing Officer

[Section 115BBE – Applicable retrospectively from Assessment Year 2017-18]

Any sum found credited in the books of the taxpayer, for which he offers no explanation about the nature and source thereof or the Assessing Officer (AO) are not satisfied by the explanation offered by the taxpayer, is termed as unexplained income. Such incomes are taxed at the flat rate of 60% under section 115BBE. It also provides that no deduction in respect of any expenditure shall be allowed to taxpayers from such unexplained income. However, the provision was silent whether taxpayer would get any deduction if tax officer has made additions in the total income of taxpayers which is deemed as unexplained income.

The Finance Bill, 2018 proposed that taxpayer would not be eligible to deduction even in this case where additions are made by the Assessing Officer for the unexplained income.

32. Chartered Accountants can file appeal to ITAT

[Section 253 – Applicable from Assessment Year 2018-19]

A tax officer is authorized to levy a penalty on accountant/ merchant banker/ registered valuer, in case incorrect information is found in any report or certificate furnished by them in the course of any proceedings under Income-tax Act. By purview of Section 271J the penalty amount would be Rs. 10,000 for each such report or certificate.

These penalty orders under section 271J are currently not appealable to ITAT.

The Finance Bill, 2018 proposes to amend Section 253 so that an appeal can be filed with ITAT against the penalty order of Assessing Officer under section 271J.

Deductions under Chapter VI-A

33. Limit of Deduction under Section 80D is enhanced for senior citizens

[Section 80D – Applicable from Assessment Year 2019-20]

Currently, an individual taxpayer can claim deduction of up to Rs. 30,000 in respect of payment made by him for the medical insurance for himself, his spouse or children. He is allowed to claim additional deduction of Rs. 30,000 for the payment made for the medical insurance policy for his parents. The deduction of Rs. 30,000 is reduced to Rs. 25,000 each if the insured persons are less than 60 years of age. In other words, if none of the family member is a senior citizen (i.e. less than 60 years of age), the deduction is limited to Rs. 50,000. If either parents or any of his family member is a senior citizen (i.e. above 60 years of age), the deduction shall be up to Rs. 55,000. If parents and any of family member is a senior citizen, the deduction up to Rs. 60,000 can be claimed under Section 80D.

The limit of Rs. 30,000 is proposed to be increased to Rs. 50,000. In nutshell, an individual taxpayer can claim deduction of up to Rs. 1 lakh under Section 80D if he or his family members and his parents are 60 years or above.

A summary of deduction allowable under Section 80D is explained in below table:

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Nature of amount spent	*Family Member*		*Parents*	
	Age below 60 years	*Age 60 years or more*	*Age below 60 years*	*Age 60 years or more*
A. Medical Insurance	25,000	50,000	25,000	50,000

B. CGHS	25,000	50,000	-	-
C. Health Check-up	5,000	5,000	5,000	5,000
D. Medical Expenditure	-	50,000	-	50,000
Maximum deduction	**25,000**	**50,000**	**25,000**	**50,000**

Further, the Finance Bill also proposes that in case of single premium health insurance policies which covers more than one year, deduction shall be allowed on proportionate basis for all those years for which health insurance cover is provided, subject to the specified monetary limit.

34. Deduction limit under section 80DDB is enhanced

[Section 80DDB – Applicable from Assessment Year 2019-20]

This deduction is allowed when an individual or HUF taxpayer pays for the medical treatment of critical illness for himself or family members. Currently, this deduction is allowed upto Rs. 60,000 for senior citizen, up to Rs. 80000 for very senior citizen and Rs. 40,000 in any other case.

The differentiation between senior and super senior citizen is removed and the deduction limit in both the case is proposed to be increased to Rs. 1,00,000. There is no change in amount of deduction for expenditure incurred in any other case i.e., for person who is below 60 years of age.

35. Deductions under Section 80JJAA is extended to footwear and leather industry

[Section 80JJAA – Applicable from Assessment Year 2019-20]

Section 80JJAA allows deductions to the manufacturers who employ new employees for a minimum period of 240 days during the year. This deduction is calculated at the rate of 30% of the additional employee cost incurred by the assessee during the year.

The eligibility of a manufacturer to claim this deduction is determined only if he gives employment for a minimum period of 240 days during the year. However, for apparel industry the minimum period of employment is relaxed to 150 days. The concession of minimum employment period for 150 days has been extended to footwear and leather industry.

Manufacturers are often denied the deduction if an employee is employed in year 1 for a period of less than 240 days or 150 days, but continues to remain employed for more than 240 days or 150 days in year 2. To overcome this difficulty, the requirement of period of employment has been proposed to be relaxed. Now as per the proposed provision the deductions shall be allowed to the manufacturer in respect of an employee hired in last year, if he continues to remain in employment in current year for more than 240 or 150 days, as the case may be.

36. New deduction introduced for Farm Producer Companies

[Section 80PA – Applicable from Assessment Year 2019-20]

To promote agricultural activities a new section 80PA is proposed to be inserted. This new provision proposes 100% deductions of profits for a period of 5 years to farm producer companies.

This deduction is allowed to farm producer companies who have total turnover of up to Rs. 100 crores during the financial year. For claiming this deduction, companies' gross total income should include income from:

a) Marketing of agricultural produce grown by its members

b) Purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members

c) Processing of agricultural produce of its members.

37. New deduction for senior citizens in respect of bank interest

[Section 80TTA, 80TTB, 194A – Applicable from Assessment Year 2019-20]

Keeping in view the fixed and restricted sources of income for senior citizens, a new section 80TTB is proposed to be inserted. This provision allows deduction of up to Rs. 50,000 to the senior citizen who has earned interest income from deposits with banks or post office or co-operative banks. Interest earned on saving deposits and fixed deposits both shall be eligible for deduction under this provision.

Deduction under Section 80TTA shall not be available to senior citizens in respect of interest on saving deposits.

Further, corresponding amendment has been proposed in Section 194A to provide that no tax shall be deducted at source from payment of interest to a senior citizen up to Rs. 50,000.

38. Certain Deductions not to be allowed if return is not filed on time

[Section 80AC – Applicable from Assessment Year 2018-19]

As per existing provisions of Section 80AC of the Act, no deduction would be admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, unless the return of income by the assessee is furnished on or before the due date specified under Section 139(1). This burden of filing of return on time is not casted on other assesses who are claiming deductions under other similar provisions.

Therefore, to bring uniformity in all income-based deduction, it is now proposed that the scope of section 80AC shall be extended to all similar deductions which are covered in heading "C.—Deductions in respect of certain incomes" in Chapter VIA (sections 80 H to 80RRB). The impact of such amendment shall be that no deduction would be allowed to a taxpayer under these provisions if income-tax return is not filled on or before the due date.

39. Amendment in section 80-IAC to promote new start-ups

[Section 80-IAC – Applicable from Assessment Year 2019-20]

Deductions under Section 80-IAC is available to an eligible start-up for 3 consecutive assessment years out of 7 years at the option of such start-up.

These deductions are allowed subject to certain conditions as given below:

a) It is incorporated between 01/04/2016 and 31/03/2019

b) The total turnover of its business does not exceed Rs. 25 crores in any of the previous year 2016-17 to 2020-21; and

c) 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.

In order to improve the effectiveness of the scheme for promoting start-ups in India, it is proposed to make following changes in the taxation regime for the start -ups:

a) The benefit would also be available to start up cos incorporated between 01/04/2019 and 31/03/2021;

b) The requirement of turnover 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.

Others

40. E-Proceedings of all scrutiny assessments

[Section 143(3A), 143(3B), 143(3C) – Applicable from Assessment Year 2018-19]

The Finance Bill, 2018 has proposed to launch a new scheme for scrutiny assessments to eliminate the interface between the Assessing Officer and the taxpayers. Under the new system, taxpayer will not be required to appear in person before the Assessing Officer as assessment proceedings in all cases selected under scrutiny will now be conducted through e-mail based communications.

Paperless assessment/e-mail based assessment was introduced in the financial year 2015-16 on pilot basis in five cities, *inter-alia*, Ahmedabad, Bangalore, Chennai, Delhi and Mumbai.

However, to implement the new system for scrutiny assessment, an amendment was required in Section 143 of the Income-tax Act. Accordingly, new sub-sections (3A) and (3B) are proposed to be inserted in Section 143 to enable the Central Govt. to make steps towards E-Assessment. The directions in this regard need to be issued on or before March 31, 2020.

41. Higher penalty for default in furnishing AIR (Section 271FA)

[Section 271FA – Applicable from Assessment Year 2018-19]

Default	Existing Penalty	Proposed Penalty
Penalty for not filing Statement within due date	Rs. 100 per day during which the default continues	Rs. 500 per day during which the default continues
Penalty for not filing Statement within time limit given in notice	Rs. 500 per day during which the default continues	Rs. 1,000 per day during which the default continues

42. Stringent prosecution for not filing the ITR

[Section 276CC – Applicable from Assessment Year 2018-19]

Section 276CC provides for imprisonment of up to 2 years in case a person doesn't file the return of income.

However exemption is provided from prosecution under section 276CC, if the return is furnished till end of assessment year or if the tax payable is up to Rs. 3,000.

The Finance Bill targets to prevent abuse of the exemption provided on the basis of amount of tax payable by shell companies or by companies holding Benami properties.

As per the proposed amendment the immunity from prosecution under section 276CC is not available to a company even if the amount of tax payable is Rs. 3,000 or less.

43. TDS from payment of interest on specified bonds

[Section 193 – Applicable from Assessment Year 2018-19]

Section 193 is proposed to be amended to provide that the person responsible for paying to a resident any interest on 7.75% Savings (Taxable) Bonds, 2018 shall deduct tax therefrom, if the interest payable on such bonds exceeds Rs. 10,000 during the financial year.

44. Cessation of Authority for Advance Ruling for the purposes of Custom Duty

[Section 245-O, 245Q]

The Finance Act, 2017 has merged the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax. Therefore, the Authority for Advance Rulings constituted under Income-tax Act shall be the Authority for giving advance rulings for the purposes of the Customs Act as well.

It is now proposed that the Income-tax Authority shall cease to act as an Authority for Advance Rulings for the purposes of the Customs Act, 1962 on and from the date of appointment of the Customs Authority for Advance Rulings.

Indirect Taxation

45. Retrospective exemptions in service tax

a) The services provided by Goods and Services Tax Network (GSTN) to the Central Government or State Government are exempted from the service tax retrospectively for the period March 28, 2013 to June 30, 2017.

b) Services provided by way of grant of license to mine petroleum crude or natural gas is exempted from service tax retrospectively for the period April 1, 2016 to June 30, 2017 on the consideration paid to the Central Government in the form of share of profit petroleum of Central Government. The said exemption is still continued under the Goods and Services Tax (GST).

c) The life insurance services provided by the Naval Group of insurance fund to personnel of Coast guard is also exempted from service tax retrospectively for the period September 10, 2004 to June 30, 2017.

46. Changes in Excise Law

a) The basic excise duty on branded and unbranded petrol & Diesel have been reduced by Rs. 2 per liter.

b) Central Board of Excise and Customs (CBEC) has been renamed as Central Board of Indirect Taxes and Customs (CBIC).

c) Additional Duty of Excise (Road Cess) leviable on Petrol and High Speed Diesel has been abolished.

47. Amendments in Custom Law

a) The scope of Custom Act has been expanded in order to cover the persons who are situated outside India and make contravention of any provisions of Custom Act. Earlier, Government was not allowed to take action against such persons who are situated outside India and commit any offence under Custom Acts. This will empower Government to control offences committed by any person whether In India or outside India.

b) The limit of Indian Custom Water has been extended for the coverage under the Customs Act.

c) Now, Central Government is empowered to exempt or to grant partial exemption for re-importation and exportation thereof within a period of 1 year for repairs or further processing from the date of let export order.

d) Now show-cause notice will have to be issued within the period of limitation. However, only the senior rank officers will be allowed to extend the time limit by 6 months and if it could not be extended, the proceedings will be deemed to be concluded.

e) Definition of activity has been omitted mainly to enhance the scope of advance ruling authority. Now, advance ruling can be applied only prior to importation or exportation.

f) Advance Ruling Authority for customs will include the officer in the rank of Principal Commissioner of Customs or Commissioner.

g) Representation can be made only by Indian resident before Authority for Advance Ruling and Appellate Authority. This provision is introduced to stop the entry of non-Indian for representation before Authority for Advance Ruling and Appellate Authority

h) Now, the Advance Ruling Authority shall pronounce its Advance Ruling in writing within 3 month of the receipt of application.

i) 'LET' import for home consumption, in case where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, will be allowed electronically or through Customs Automated Systems of ICE Gate.

j) New Chapter PAYMENTS THROUGH ELECTRONIC CASH LEDGER has been introduced, so as to allow taxpayers to pay in advance the amount of duty, tax, penalty, interest etc. However, effective date will be notified separately. This is a welcome provision which will reduce the period required for importation.

k) Drawback under Section 74 of Customs Act is allowed even on the export shipment made by post.

l) Time limit for depositing the fine is fixed which shall be maximum 120 days from the date of order until the appeal is filed against such order.

m) Government is empowered to prescribe procedure or documentation for specific class of importers or exporters or categories of the goods to simplify or provide different procedures to facilitate the trades, which will reduce the transaction cost and remove the difficulties.

n) SCN or orders or Summons or any letters can be issued by hand and can be delivered to employee, 'CHA', Advocate or any adult member of family or can be issued by Post or sped post or courier with acknowledgement receipt or electronically through email on the address available with customs, publishing in newspaper or affixing the same on the last known address of the office / business or uploading of the official website of the notice board.

o) The Govt. has made amendments in rates of basic custom duty (BCD). Such changes would be applicable from February 02, 2018. The comparative analysis of Custom Duty is shown in below table:

S.No.	Commodity	Old Rate	New Rate
1	Food Processing	30%	50%
2	Perfumes and toiletry preparations	10%	20%
3	Automobiles parts	7.5%/10%	15%
4	Footwear	10%	20%
5	Jewellery	15%	20%
6	Cellular Mobile phones	15%	20%

7	LCD/LED/OLED panels	7.5%/10%	15%
8	Furniture	10%	20%
9	Watches and Clocks	10%	20%
10	Toys and Games	10%	20%

Prevention of Money-Laundering Act, 2002

48. Amendment to the Definition of 'Proceeds of Crime'

As per existing definition of 'Proceeds of crime' under Section 2(1)(u) of the Prevention of Money Laundering Act, 2002, it means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence or the value of any such property or where such property is taken or held outside the country, then the property equivalent in value held within the country.

Under the proposed definition of crime proceeds, the property equivalent in value held within the country or abroad shall be treated as proceeds of crime.

49. Computing period of 180 days for provisionally attachment of property

A new proviso is proposed to be inserted in Section 5(1) which provides for attachment of property involved in money-laundering. As per the new proviso for computing the period of 180 days for provisional attachment of the property, the period during which the proceedings under this section is stayed by the High Court shall be excluded and a further period not exceeding 30 days from the date of order of vacation of such stay order shall be counted.

50. Proposal to tighten provisions relating to Bail

An amendment has been proposed to Section 45 which prescribes offences to be cognizable and non-bailable. Under the proposed amendment, no person accused of an offence under this Act shall be released on bail or on his own bond unless following two conditions are satisfied:

a) Public Prosecutor has been given an opportunity to oppose the application for such release;

b) Where Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

Under the extant norms, those offences which are punishable for a term of imprisonment more than 3 years under part A of the Schedule are considered cognizable and non-bailable.

It is interesting to note that recently, in the case of *Nikesh Tarachand Shah v Union of India [2017] 87 taxmann.com 257,* The Supreme Court held that "Additional twin conditions provided in section 45(1) for release of accused on bail violates Articles 14 and 21 of Constitution." However, there has not been any amendment to the section 45 in line with the Apex Court's ruling.

51. Bail in case of offences involving money laundering less than 1 Crore

First proviso to Section 45(1) has been proposed to be amended to include a person who is accused on his own or along with other co-accused of money-laundering of a sum of less than Rs. 1 Crore may be released on bail, if Special Court so directs. Currently there is no such monetary limit for categorizing offence as bailable or non-bailable.

52. Disclosure of information by Director or any other authority

New sub section (2) has been proposed to be inserted in section 66 that Director or such other authority shall share the information with the concerned agency for necessary action if such Director or other authority specified is of the opinion on the basis of information or material in his possession that the provisions of any other law for the time being in force are contravened.

53. Punishment for fraud under Companies Act, 2013 to be included in scheduled offence

Section 447 of the Companies Act, 2013 which deals with punishment for fraud has been included in the list of Scheduled offence under the Prevention of Money Laundering Act, 2002. The implications of this proposal is that any offence of fraud committed by any person under section 477 Companies Act, 2013 shall also attract PMLA. The term any person can include Company's Director, Company Secretary, Key Managerial Person, or any person who commits fraud.

The Bill also proposes a proviso to section 8(8) of the Prevention of Money-Laundering Act, 2002. The proposed proviso empowers the Central Government to make rules for considering the claim of the claimant for the purposes of restoration of confiscated properties during the trial of the case.

Securities Laws

54. SEBI can impose penalty under SEBI Act and SCRA

Amendments in SEBI Act and SCRA are proposed so as to allow the market regulator for imposing penalties on any person who had contravened any provisions under such Acts. At present, only adjudicating officer has authority to imposed penalty.

55. REITs and InVITs come under scanner of law maker

Whosoever managing the Real Estate Investment Trust and Infrastructure Investment Trust can face the huge penalty if they fail to comply with the provision of listing or delisting norms under SCRA, 1956.

56. Hefty penalty proposed on Market Intermediaries

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

a) Minimum fine of Rs. 5 crore 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 crore under Depositories Act, 1996 on Depositories

57. Proposal to credit Consolidated Fund of India for all settlement amount realized under SEBI, SCRA and Depositories Act

It has been proposed that all settlement amount realized under SEBI, SCRA and Depositories Act shall be credited to the Consolidated Fund of India. Revenues received by the government and expenses made by it, excluding the exceptional items, are part of the Consolidated Fund of India. No money can be withdrawn from this fund without the Parliament's approval.

58. Legal Representative liable to pay dues of decreased person

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

FCRA, 2010

59. Retrospective amendment to definition of 'Foreign Source'

The Finance Bill 2018 has proposed an amendment to the FCRA 1976 w.e.f from 5th August, 1976. It is pertinent to note that proposed amendment relates to an act which has been repealed since September 2010.

Earlier, the Finance Act 2016 had amended the Section 2(1)(j)(vi) of the FCRA, 2010. By virtue of this amendment all contributions made by Indian Companies with foreign shareholding in excess of 50% were excluded from the definition of foreign source. It may be noted that prior to this amendment all Indian Companies with more than 50% shareholding by foreigners were treated as foreign source and FCRA law was applicable. Ironically under this law even some well-known Indian companies were not entitled to give donations even to their own foundations without FCRA prior permission or registration.

RBI Act

60. Amendments to the Reserve Bank of India Act, 1934

Section 17 of the said Act prescribes the business which the bank may carry out. A new clause (1A) has been proposed to be inserted to Section 17 of the RBI Act, 1934 whereby the Bank has been authorized to accept money as deposits repayable with interest from banks or any other person under Standing Deposit Facility Scheme for the purpose of liquidity management. The Standing Deposit Facility helps the RBI to absorb surplus funds without having to provide lenders collateral in exchange.