AMENDMENTS MADE BY THE FINANCE ACT, 2017

Amendment no 1

Rates of income-tax for assessment year 2018-19

Rates of Income Tax

(A)

I. In the case of every Individual (other than those covered in part (II) or (III) below) or Hindu undivided family or AOP/BOI (other than a co-operative society) whether incorporated or not, or every artificial judicial person

Upto ₹2,50,000	Nil
₹ 2,50,010 to ₹5,00,000	5%
₹5,00,010 to ₹10,00,000	20%
Above ₹ 10,00,000	30%

II. In the case of every individual, being a resident in India, who is of the age of 60 years or more but less than 80 years at any time during the previous year.

Upto ₹3,00,000	Nil
₹ 3,00,010 to ₹ 5,00,000	5%
₹ 5,00,010 to ₹ 10,00,000	20%
Above ₹10,00,000	30%

III. In the case of every individual, being a resident in India, who is of the age of 80 years or more at any time during the previous year.

Upto ₹5,00,000	Nil
₹ 5,00,010 to ₹ 10,00,000	20%
Above ₹10,00,000	30%

Surcharge: The amount of income-tax computed in accordance with the above rates shall be increased by a surcharge @ 10% of such income tax in case of a person having a total income exceeding ₹50 lakhs and upto ₹ 1 crore and 15% of such income-tax in case of a person having a total income exceeding ₹1 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess (SHEC)' @ 1% on income tax shall be chargeable.

(B) In the case of every co-operative society

(1) Where the total income does not exceed ₹ 10,000	10% of the total income;
(2) where the total income exceeds ₹ 10,000 but does not exceed ₹ 20,000	₹ 1,000 plus 20% of the amount by which the total income exceeds ₹ 10,000;
(3) where the total income exceeds ₹20,000	₹ 3,000 plus 30% of the amount by which the total income exceeds ₹ 20,000.

Surcharge: The amount of income-tax shall be increased by a surcharge @ 12% of such income-tax in case of a co- operative society having a total income exceeding ₹ 1crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1 % on income tax shall be chargeable.

(C) In case of any firm (including limited liability partnership) - 30%.

Surcharge: The amount of income-tax shall be increased by a surcharge @ 12% of such income-tax in case of a firm having a total income exceeding ₹ 1 crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1 % on income tax shall be chargeable.

(D) In the case of a company

(i) For domestic companies:

(a)	If the total turnover or gross receipts of the previous year 2015-16 does not exceed ₹ 50 crore	25%
(b)	In all other cases	30%

Surcharge: The surcharge @ 7% in case of a domestic company shall be levied if the total income of the domestic company exceeds ₹ 1 crore but does not exceed ₹ 10 crore. The surcharge @ 12% shall be levied if the total income of the domestic company exceeds ₹ 10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1 % on income tax (inclusive of surcharge if applicable) shall be chargeable.

For foreign company: 40%.

Surcharge: In case of companies other than domestic companies, the surcharge @ 2% shall be levied if the total income exceeds ₹ 1 crore but does not exceed ₹ 10 crare.

The surcharge @ 5% shall be levied if the total income of the company other than domestic company exceeds ₹ 10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1 % on income tax (inclusive of surcharge if applicable) shall be chargeable.

Amendments relating to Charitable or Religious Trusts

1. Restriction on exemption in case of corpus donation by exempt entities to other exempt entities registered under section 12AA (Explanation 2 to section 11 and twelfth proviso under section 10(23C) inserted) [W.e.f. A.Y. 2018-19)

As per the existing provisions of the Act, donations made by a trust to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, except those made out of accumulated income, is considered as application of income for the purposes of its objects.

Similarly, donations made by entitles exempted under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 to any trust or institution registered under section 12AA, except those made out of accumulated income, is also considered as application of income for the purposes of its objects.

However, donation given by these exempt entitles to another exempt entity registered under section 12AA, with specific direction that it shall form part of corpus, is though considered application of income in the hands of donor trust but is not considered as income of the

recipient trust as per section 11(1)(d). Trusts, thus, engage in giving corpus donations without actual applications.

Therefore, the Act has inserted the following Explanation 2 under section 11:

"Explanation 2.-Any amount credited or paid, out of income referred to in clause (a) or clause (b) read with Explanation 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes.
The Act has also inserted the following twelfth proviso under section 10(23C):
"Provided also that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), to any trust or institution registered under section 12AA, being voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established. "

2. Clarity of procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12 [Section 12A] [W.e.f. A.Y. 2018-19]

(A) Fresh application for registration required if there is change or modification of objects of entities exempt under sections 11 and 12

The existing provisions of section 12A of the Act provide for conditions for applicability of sections 11 and 12 In relation to the benefit of exemption in respect of income of any trust or institution.

Further, the provisions of section 12AA of the Act provide for registration of the trust or institution which entitles them to the benefit of sections 11 and 12. It also provides the circumstances under which registration can be cancelled, one such circumstance being satisfaction of the Principal Commissioner or Commissioner that its activities are not genuine or are not being carried out in accordance with its objects subsequent to grant of registration. However, at present there is no explicit provision in the Act which mandates said trust or institution to approach for fresh registration in the event of adoption or undertaking modifications of the objects after the registration has been granted.

Therefore, for claiming exemption under sections 11 and 12, the Act has inserted sub-clause (ab) as another condition for claiming exemption under section 12A(1). Sub-clause Cab) provides that where a trust or an institution has been granted registration under section 12AA or has obtained registration at anytime under section 12A [as it stood before its amendment by the Finance (No.2) Act, 1996} and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modifications of the objects in the prescribed form and manner.

In view of the above, the consequential amendments have been made U/S 12AA relating to procedure for registration.

(B) Exemption under sections 11 and 12 to the trust to be allowed only if it furnishes return of income within the time allowed under section 139

As per the existing provisions of said section, the entities registered under section 12AA are required to file return of income under section 139(4A), if the total income without giving effect to the provisions of sections 11 and 12 exceeds the maximum amount which is not

chargeable to income-tax. However, there is no clarity as to whether the said return of income is to be filed within time allowed under section 139 of the Act or otherwise.

In order to provide clarity in this regard, the Act has inserted the following additional condition (iia) under section 12A(1) in order to be eligible for exemption under sections 11 and 12:

"(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of section 139(4A), within the time allowed under that section. " i.e. section 139.
These amendments are clarificatory in nature.

AMENDMENTS RELATING TO INCOME UNDER THE HEAD "HOUSE PROPERTY"

"Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the ***period up to one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil."***

AMENDMENTS RELATING TO INCOME UNDER THE HEAD "PROFITS AND GAINS OF BUSINESS OR PROFESSION"

Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment [Sections 35AD and 43(1)].[W.e.f. A.Y. 2018-19]

Under the existing provisions of the Act, revenue expenditure incurred in cash exceeding certain monetary threshold is not allowable as per section 40A(3) of the Act except in specified circumstances as referred to in Rule 6DD of the Income-tax Rules, 1962. However there is no provision to disallow the capital expenditure incurred in cash.

Further, section 35AD of he Act, inter-alia provides for investment linked deduction on the amount capital expenditure incurred, wholly or exclusively for the purposes of business, during the previous year for a specified business except capital expenditure incurred for acquisition of any land or goodwill or financial instrument.

In order to discourage cash transactions even for capital expenditure, the Act has inserted the following second proviso under section 43(1) relating to definition of actual cost:

"Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost. "

The Act has further amended clause (f) of section 35AD(8) of the Act to provide that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ₹ 10,000, no deduction shall be allowed in respect of such capital expenditure.

Measures to discourage cash transactions [Section 40A(3)] [W.e.f. A.Y. 2018-19]

The existing provision of section 40A(3) of the Act, provides that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds ₹ 20,000, shall not be allowed as a deduction. Further, section 40A(3A) also provides for deeming a payment as profits and gains

of business of profession if the expenditure is incurred in a particular year but the payment is made in any subsequent year of a sum exceeding ₹ 20,000 otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

In order to disincentivise cash transactions, the Act has amended the provision of section 40A of the Act to provide the following:

(i) To reduce the existing threshold of cash payment to a person from ₹ 20,000 to ₹ 10,000 in a single day; i.e any payment in cash above ₹10,000 to a person in a day, shall not be allowed as deduction in computation of income from "Profits and gains of business or profession";

(ii) Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding ₹ 10,000 to a person in a single day; and

(iii) Further expand the specified mode of payment under respective sub-section of section 40A from an account payee cheque drawn on a bank or account payee bank draft to by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account.

It may, however, the noted that in case of payment made for plying, hiring or leasing goods carriages, the limit of Rs. 35,000 has not been changed.

Amendment in section 40A(2).

The existing provisions of section 92BA of the Act, inter-alia provide that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) are covered within the ambit of specified domestic transactions.

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc.

This has considerably increased the compliance burden of the taxpayers.
In order to reduce the compliance burden of taxpayers, the Act has provided that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. Accordingly, the Act has made a consequential amendment in section 40(A)(2)(b) of the Act.

Actual cost of asset in case of withdrawal of deduction available to specified businesses in terms of section 35AD(7B) [Explanation 13 to section 43(1) [W.e.f. A.Y. 2018-19)

The existing provisions of section 35AD of the Act, inter alia provides for investment linked deduction on amount of capital expenditure incurred, wholly or exclusively, the purposes of business, during the previous year for a specified business excluding capital expenditure incurred for acquisition of any land or goodwill or financial instrument. Further, section 35AD(7B) provides that where any asset on which benefit of section 35AD is claimed and allowed, is used for a purpose other than specified business, the benefit of deduction already granted under section 35AD shall be deemed to be the income of the assessee. However, it further provides that the deemed income shall be net of normal depreciation as would be entitled.

Clause (I) of section 43 defines "actual cost" for the purposes of claiming depreciation under section 32 of the Act in certain situations. However, there is no clarity on determination of actual cost for the purposes of allowance of depreciation of such assets in respect of which the deduction

which is already allowed in a previous year under section 35AD of the Act, is withdrawn in terms of sub-section (7B) of the said section.

In light of the recommendations of income-tax simplification committee and to bring clarity, the Act has amended the provisions of the section 43 of the Act, to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of section 35AD(7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.

Increasing the threshold limit for maintenance of books of accounts in case of Individuals and Hindu undivided family [Section 44AA] [W.e.f. A.Y. 2018-19]

In order to reduce the compliance burden, the Act has amended the provisions of section 44AA(2) to increase monetary limits of income and total sales or turn over or gross receipts, etc. specified in said clauses for maintenance of books of accounts from ₹ 1,20,000 to ₹ 2,50,000 and from ₹ 10,00,000 to ₹ 25,00,000, respectively in the case of individuals and Hindu undivided family carrying on business or profession.

Measures for promoting digital payments in case of small unorganized businesses [Section 44AD] [W.r.e.f. A.Y. 2017-18]

The existing provisions of section 44AD of the Act, inter-alia, provides for a presumptive income scheme in case of eligible assesses carrying out eligible businesses. Under this scheme, in case of an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding ₹ 2 crore in a previous year, a sum equal to 8% of the total turnover or gross receipts, or, as the case may be, a sum higher than the aforesaid sum declared by the assessee in his return of income, is deemed to be the profits and gains of such business chargeable to tax under the head "profits and gains of business or profession".

In order to promote digital transactions and to encourage small unorganized business to accept digital payments, the Act has inserted a proviso under section 44AD(1) of the Act to reduce the existing rate of deemed total income of 8%, to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

It must be noted that the presumptive rate of 6% shall be applicable only if the amount of such total turnover or gross receipts is received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account

- **During the previous year or**
- **Before the due date specified in section 139(1) in respect of that previous year.**

AMENDMENTS RELATING TO INCOME UNDER THE HEAD "CAPITAL GAINS"

Immovable property to be considered as short term if held for a period nor more than 24 months. Hence, long- term if held for a period exceeding 24 months instead of 36 months [Third proviso to section 2(42A) amended] [W.e.f. A.Y.2018-19]

Tax neutral conversion of preference shares to equity shares [Sections 47, 49 and section 2(42A)] [W.e.f. A.Y. 2018-19]

Under the existing provisions of the Act, conversion of security from one form to another is regarded as transfer for the purpose of levy of capital gains tax. However, tax neutrality to the conversion of bond or debenture of a company to share or debenture of that company is provided under the section 47. No similar tax neutrality to the conversion of preference share of a company into its equity share is provided.

In order to provide tax neutrality to the conversion of preference share ofa company into equity share of that company, the Act has inserted clause (xb) in section 47 to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

Consequential amendments have been made in section 49 and section 2(42A) in respect of cost of acquisition and period of holding.

Sub-section (2AE) inserted in section 49: The Act has inserted the following sub-section (2AE) in section 49 in order to determine the cost of acquisition of the equity shares which have been converted from preference shares.

"(2AE) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee. "

Sub-clause (hi) has been inserted in clause (i) of Explanation 1 given under section 2(42A) "(hf) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, there shall be included the period for which the preference shares were held by the assessee. "

Special provisions for computation of capital gains in case of joint development agreement [Section 45(5A)] [W.e.f. A.Y.2018-19]

Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

With a view to minimise the genuine hardship which the owner ofland may face in paying capital gains tax in the year of transfer, the Act has inserted a new sub-section (5A) in section 45 which provides as under:

'(5A) Notwithstanding anything contained in sub-section (1) (i.e. section 45(1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share. being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and

the provisions of this Act, other than the provisions of this sub- section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

Explanation.-For the purposes of this sub-section. the expression-

(i) "Competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(ii) "Specified Agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(iii) "Stamp Duty Value" means the value adopted or assessed or assessable by any authority of Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.

In other words, in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

It is further provided that the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

However, the benefit of this new regime shall not apply to an assessee who transfers his share III the project to any other person on or before the date of issue of said certificate of completion. In such a situation, the capital gains as determined under general provisions of the Act shall be deemed to be the income of the previous year in which such transfer took place and shall be computed as per provisions of the Act without taking into account these new provisions.

Full value of consideration for transfer of share other than quoted shares [Section 50CA inserted) [W.e.f. A.Y. 2018-19]

Under the existing provisions of the Act, income chargeable under the head "Capital gains" is computed by taking into account the amount of full value of consideration received or accrued on transfer of a capital asset. In order to ensure that the full value of consideration is not understated, the Act also contained provisions for deeming of full value of consideration in certain cases such as deeming of stamp duty value as full value of consideration for transfer of immovable property in certain cases.

In order to rationalise the provisions relating to deeming of full value of consideration for computation of income under the head "capital gains", the Act has inserted a new section 50CA which provides as under:

"Special provision for full value of consideration for transfer of share other than quoted share [Section 50CA]: Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.-For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business. "

Note.- The manner of determination of fair market value of shares shall be notified in due course of time.

Expanding the scope of long term bonds [Section 54EC) [W.e.f. A.Y. 2018-19]

The existing provision of section 54EC provides that capital gain to the extent of Rs. 50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time. Currently, investment in bonds issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.

In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, the Act has amended section 54EC so as to provide that investment in any bond redeemable after three years which is to be notified by the Central Government in this behalf shall also be eligible for exemption.

Shifting base year from 1981 to 2001 for computation of capital gains [Section 55] [W.e.f. A.Y. 2018-19)

The existing provisions of section 55 provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired before 01.04.1981, the assessee has been allowed an option of either to take the fair market value of the asset as on 01.04.1981 or the actual cost of the asset as cost of acquisition. The assessee is also allowed to claim deduction for cost of improvement incurred on or after 01.04.1981, if any.

As the base year for computation of capital gains has become more than three decades old, assessees are facing genuine difficulties in computing the capital gains in respect of a capital asset, especially immovable property acquired before 01.04.1981 due to non-availability of relevant information for computation of fair market value of such asset as on 01.04.1981.

In order to revise the base year for computation of capital gains, the Act has amended section 55 of the Act so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1.4.2001 or the actual cost of the asset as cost of acquisition and consequently the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

Consequential amendment has also been made in clause (iii) of the Explanation under section 48 (relating to meaning of indexed cost of acquisition) so as to align the provisions relating to cost inflation index to the base year beginning on 1.4.2001.

AMENDMENTS RELATING TO INCOME UNDER THE HEAD "INCOME FROM OTHER SOURCES"

3. Widening scope of income from other sources [Section 56(2)(x) inserted and sections 56(2)(vii) and (viia) made applicable only upto A.Y. 2017-18J [w.e.f. 1.4.2017]

Under the existing provisions of section 56(2)(vii), any sum of money or any property which is received without consideration or for inadequate consideration (In excess of the specified limit of Rs. 50,000) by an individual or Hindu undivided family is chargeable to income-tax in the hands of the resident under the head "income from other sources" subject to certain exceptions. Further, as per section 56(2)(viia), receipt of certain shares by a firm or a company in which the public are not substantially interested is also chargeable to income-tax in case such receipt is in excess of Rs. 50,000 and is received without consideration or for inadequate consideration.

The existing definition of property for the purpose of this section includes immovable property, jewellery, shares, paintings, etc. These anti-abuse provisions are currently applicable only in case of individual or HUF and firm or company in certain cases. Therefore, receipt of

sum of money or property without consideration or for inadequate consideration does not attract these anti-abuse provisions in cases of other assessees.

In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, the Act has stated that section 56(2)(vii) and section 56(2)(viia) shall be applicable for receiving the sum of money or the property or shares without consideration or for inadequate consideration prior to 1.4.2017 (i.e. upto A.Y. 2017-18). W.e.f. A. Y. 2018-19, it has inserted a new clause (x) in sub-section (2) of section 56 which provides as under:

"(x) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,-

(a) Any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) Any immovable property,-

(A) Without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) For a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause:

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(c) Any property, other than immovable property,-

(A) Without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(B) For a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received-

(I) From any relative; or
(II) On the occasion of the marriage of the individual; or
(III) Under a will or by way of inheritance; or
(IV) In contemplation of death of the payer or donor, as the case may be; or

(V) From any local authority as defined in the Explanation to clause (20) of section 10; or

(VI) From any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(VII) From or by any trust or institution registered under section 12A or section 12AA; or

(VIII) By any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10; or

(IX) By way of transaction not regarded as transfer under clause (i) or clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vie) or clause (vica) or clause (vicb) or clause (vid) or clause (vii) of section 47; or

(X) From an individual by a trust created or established solely for the benefit of relative of the individual.

Explanation.- For the purposes of this clause, the expressions "assessable ", 'fair market value ", "jewellery ", "property", "relative" and "stamp duty value" shall have the same meanings respectively assigned to them in the Explanation to clause (vii). '

The Explanation under section 56(vii) provides as under:

Explanation.-For the purposes of this clause,-

(a) **"Assessable"** shall have the meaning assigned to it in the Explanation 2 to sub-section (2) of section 50C;

(b) ***"Fair Market Value"*** of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

(c) ***''Jewellery''*** shall have the meaning assigned to it in the Explanation to sub-clause (ii) of clause (14) of section 2·

(d) ***''Property''*** means the following capital asset of the assessee, namely:-

- **(i)** Immovable property being land or building or both;
- **(ii)** Shares and securities;
- **(iii)** Jewellery;
- **(iv)** Archaeological collections;
- **(v)** Drawings;
- **(vi)** Paintings;
- **(vii)** Sculptures;
- **(viii)** Any work of art; or
- **(ix)** Bullion;

(e) ***"Relative"*** means,-

(i) In case of an individual-

- **(A)** Spouse of the individual;
- **(B)** Brother or sister of the individual;
- **(C)** Brother or sister of the spouse of the individual;
- **(D)** Brother or sister of either of the parents of the individual;
- **(E)** Any lineal ascendant or descendant of the individual;
- **(F)** Any lineal ascendant or descendant of the spouse of the individual;
- **(G)** Spouse of the person referred to in items (b) to (f); and

(ii) In case of a Hindu undivided family, any member thereof;

(f) ***"Stamp Duty Value"*** means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.

Consequential amendment has also been made in section 49(4) for determination of cost of acquisition by inserting clause (x) of section 56 therein. The amended section 49(4) after insertion of the said clause (x) provides as under:

(4) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) or clause (viia) or clause (x) of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii) or clause (viia) or clause (x).

AMENDMENTS IN PROVISIONS RELATING TO CARRY FORWARD AND SET OFF OF LOSSES

Restriction on set-off of loss from House property [Section 71(3A) inserted) [w.e.f. A.Y. 2018-19)

Section 71 of the Act relates to set-off of loss from one head against income from another. In line with the international best practices, the Act has inserted sub-section (3A) in the said section to provide that set-off of loss under the head "income from house property" against any other head of income shall be restricted to ₹ 2,00,000 for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.

AMENDMENTS RELATING TO DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

Rationalisation of deduction in respect of deposits in National Pension System Trusts (NPS) for self-employed individual [Section 80CCD) [w.e.f. A.Y. 2018-19)

The existing provisions of section 80CCD provides that employee or other individuals shall be allowed a deduction for amount deposited in National Pension System trusts (NPS). The deduction under section 80CCD(l) cannot exceed 10% of salary in case of an employee or 10% of gross total income in case of other individuals. However, under the provisions of section 80CCD(2) of the Act, further deduction to an employee in respect of contribution made by his employer is allowed up to 10% of salary of the employee. Thus, in case of an employee, the deduction allowed under section 80CCD adds up to 20% of salary whereas in case of other individuals, the total deduction under section 80CCD is limited to 10% of gross total Income.

In order to provide parity between an individual who is an employee and an individual who is self-employed, the Act has amended section 80CCD so as to increase the upper limit of 10% of gross total income to 20% in case of individual other than employee.

Phasing out of deduction in respect of investment made under an Equity Savings Scheme [Section 80CCG) [w.e.f. A.Y.2018-19]

Under the existing provisions of section 80CCG, deduction for three consecutive assessment years is allowed upto Rs. 25,000 to a resident individual for investment made in listed equity shares or listed units of an equity oriented fund subject to fulfilment of certain conditions. This deduction was introduced vide Finance Act, 2012. However considering the fact that limited number of individuals availed this deduction and also to rationalize the multiplicity of deductions available under Chapter VI-A of the Act, the Act has phased out this deduction by providing that no deduction under section 80CCG shall be allowed from assessment year 2018-19. However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20 if he is otherwise eligible to claim the deduction as per the provisions of this section.

Restricting cash donations [Section 80G) [w.e.f. A.Y. 2018-19]

Under the existing provisions of section 80G, deduction is not allowed in respect of donation made of any sum exceeding Rs. 10,000, if the same is not paid by any mode other than cash.

In order to provide cash less economy and transparency, the Act has amended section 80G so as to provide that no deduction shall be allowed under section 80G in respect of donation of any sum exceeding Rs. 2,000 unless such sum is paid by any mode other than cash.

AMENDMENTS RELATING TO REBATE IN INCOME TAX

Rebate allowable under section 87A reduced from Rs. 5,000 to Rs. 2,500 [Section 87A] [W.e.f. A.Y. 2018-19]

The existing provisions of section 87A provide for a rebate up to Rs. 5,000 from the income-tax payable to a resident individual if this total income does not exceed Rs. 5,00,000.

In view of rationalisation of tax rates for individuals in the income slab of Rs. 2,50,000 to Rs. 5,00,000, the Act has amended section 87 A so as to reduce the maximum amount of rebate available under this section from existing Rs. 5,000 to Rs. 2,500. The Act has also provided that this rebate shall be available to only resident individuals whose total income does not exceed Rs. 3,50,000.

AMENDMENTS RELATING TO TAX ON DISTRIBUTED PROFITS

Rationalization of taxation of income by way of dividend [Section 115BBDA] [W.e.f. A.Y. 2018-19]

Under the existing provisions of section 115BBDA, income by way of dividend in excess of Rs. 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm.

With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, the Act has amended section 115BBDA so as to provide that the provisions of said section shall be applicable to a specified assesses resident in India.

Meaning of specified assessee [Clause (a) to Explanation under section 115BBDA]
"Specified assessee" means a person other than,-

- **(i)** A domestic company; or
- **(ii)** A fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (VI) or sub-clause (via) of clause (23C) of section 10; or
- **(iii)** A trust or institution registered under section 12A or section 12M.

In other words, all assesses other than a domestic company or a charitable trust approved under section 10(23C) or registered under section 12A or section 12AA shall be liable to pay tax @ 10% on the dividend income received by them in excess on ₹ 10,00,000.

RATIONALISATION OF PROVISIONS RELATING TO TAX CREDIT FOR MINIMUM ALTERNATE TAX [SECTION 115JAA] [W.E.F. A.Y. 2018-19]

MAT credit can be carried forward upto fifteenth assessment years [Section 115JAA(3A) amended]: Section 115JAA contains provisions regarding carrying forward and set off of tax credit in respect of Minimum Alternate Tax (MAT) paid by companies under section 115JB. Currently, as per section 115JAA(3A), the tax credit can be carried forward upto tenth assessment years With a

view to provide relief to the assessees paying MAT, the Act has amended section 115JAA(3A) to provide that the tax credit determined under this section can be carried forward up to fifteenth assessment years immediately succeeding the assessment years in which such tax credit becomes allowable.

RATIONALISATION OF PROVISIONS RELATING TO TAX CREDIT FOR ALTERNATE MINIMUM TAX [SECTION 115JD(2) & (4)] [W.E.F. A.Y.2018-19]

AMT credit can be carried forward upto fifteenth assessment years [Section 115JD(4) amended]: Section 115JD contains provisions regarding carrying forward and set off of tax credit in respect of Alternate Minimum Tax (AMT) paid by a person other than a company under section 115JC. Currently, as per section 115JD(4) the tax credit can be carried forward upto tenth assessment years. With a view to provide relief to the assessees paying AMT, the Act has amended section 115JD(4) to provide that the tax credit determined under this section can be carried forward up to fifteenth assessment years immediately succeeding the assessment years in which such tax credit becomes allowable.

AMENDMENTS RELATING TO RETURN OF INCOME, ASSESSMENT, REASSESSMENT AND RECOMPUTATION

Revised return can now be submitted before the end of the relevant assessment year [Section 139(5) [w.e.f. A.Y. 2018-19]

In order to expedite assessments of the Department, it is critical that the returns for an assessment year also freeze by the end of the assessment year. The Act has therefore, amended the provisions of sub-section (5) of section 139 to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

Quoting of Aadhaar number [Section 139AA] [w.e.f. 1.7.2017]

(1) Eligible person to quote Aadhaar Number [Section 139AA(1): Every person who is eligible to obtain Aadhaar number shall, on or after 1.7.2017, quote Aadhaar number-

(i) In the application form for allotment of permanent account number;

(ii) In the return of income:

However, where the person does not possess the Aadhaar Number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or as the case may be, in the return of income furnished by him.

(2) Eligible person to intimate Aadhaar Number [Section 139AA(2)]: Every person who has been allotted permanent account number as on 1.7.2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette.

However, in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.

(3) Provisions not to apply to certain persons or a State [Section 139AA(3)]: The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Explanation.-For the purposes of this section, the expressions-

(i) "Aadhaar number", "Enrolment" and "resident" shall have the same meanings respectively assigned to them in clauses (a), (m) and (v) of section 2 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016)

(ii) "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.

Payment of rent by certain individuals or Hindu undivided family [Section 194-IB]

(1) TDS from payment of rent exceeding ₹50,000 p.m. (Section 194-IB(1): Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-1 i.e. who are not covered under the provisions of section 44AB(a) or (b), responsible for paying to a resident any income by way of rent exceeding ₹ 50,000 for a month or part of a month during the previous year, shall deduct an amount equal to 5% of such income as income-tax thereon.

AMENDMENTS RELATING TO PAYMENT OF INTEREST/FEE

Fee for delayed filing of return of income [Section 234F] [w.e.f. A.Y. 2018-19]

In view of the non-intrusive information-driven approach for improving tax compliance and effective utilization of information in tax administration, it is important that the returns are filed within the due dates specified in section 139(1).

Further, the time limits reduced by the Act for making of assessment are also based on pre-requisite that returns are filed on time.

In order to ensure that return is filed within due date, the Act has inserted the following new section 234F:

Fee for default in furnishing return of income. [Section 234F)

(1) Amount of fee payable for late filing of return of income [Section 234F(1): Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in section 139(1), he shall pay, by way of fee, a sum of,-

(a) ₹ 5,000, if the return is furnished on or before the 31st day of December of the assessment year;

(b) ₹ 10,000 in any other case:

However, the total income of the person does not exceed ₹ 5,00,000, the fee payable under this section shall not exceed ₹ 1,000.

(2) Provision applicable for return furnished for assessment year 2018-19 and onwards [Section 234F(2)]: The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.

OTHER AMENDMENTS

Restriction on cash transactions [Section 269ST and 271DA inserted] [w.e.f. 1.4.2017]

In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. Black money is

generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash.

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, the Act has inserted the following section 269ST in the Act which provides as under:

Mode of undertaking transactions [Section 269ST]: No person shall receive an amount of ₹ 2,00,000 or more-

(a) In aggregate from a person in a day; or
(b) In respect of a single transaction; or
(c) In respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

However, the provisions of this section shall not apply to-

(i) Any receipt by-
  (a) Government;
  (b) any banking company, post office savings bank or co-operative bank;
(ii) Transactions of the nature referred to in section 269SS;
(iii) Such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gaze e, specify.

Explanation.-For the purposes of this section,-

(a) "Banking company" shall have the same meaning as assigned to it in clause (I) of the Explanation to section 26988;
(b) "Co-operative bank" shall have the same meaning as assigned to it in clause (i/) of the Explanation to section 26988.

As per Explanation to section 26988 the meaning of "banking company" and "co-operative bank" is as under:

(i) "Banking Company" means a company to which the provisions of the Banking Regulation Act. 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;
(ii) "Co-Operative Bank" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949.

The Act has also inserted the following new section 271 DA in the Act which provides as under:

Penalty for failiure to comply with provisions of section 269ST [Section 271DA]

(1) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, ***a sum equal to the amount of such receipt:***
Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner.