With Blessings of Devi Saraswati

Presentation on “Direct Tax Proposals under Finance Bill in Budget 2019”

By CA Bhupendra Shah

Welcome to all Members

पुष्पं पुष्पं विचिन्वीत मूलच्छेदं न कारयेत् |
मालाकार इवारामे न यथांगारकारकः ||

-महाभरत, उद्योग.

A king must extract tax from his subjects just as painlessly as a bee extracting nectar from a flower. He must act like florist who plucks flowers but takes good care of the plants in return. He must not be like a coal miner who destroys the source of his income day by day.

SURCHARGE RATES INCREASED

Effective New Tax Slab Top Rates in India - Budget 2019

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Income Range	Top Tax Slab	Surcharge	Cess	Top Tax Rate Now	Earlier	Effective Increase	Higher Tax be paid at base of slab
0 - 2.5 lacs	0%		4%			No Change	
2.5 lacs - 5 lacs	5%			0% (due to rebate)			
5 lacs - 10 lacs	20%			20.80%			
10 lacs - 50 lacs	30%	0%		31.20%			
50 lacs - 1 cr		10%		34.32%			
1 cr - 2 cr		15%		35.88%	35.88%		
2 cr - 5 cr		**25%**		**39.00%**		**3.12%**	**Rs. 6,04,500/-**
5 cr +		**37%**		**42.74%**		**6.86%**	**Rs. 33,89,100/-**

CORPORATE TAX

Currently, only 25% tax rate is applicable to companies with an annual turnover of Rs 250 crore. This has been extended to companies with turnover of up to Rs 400 crore. Only 0.7% companies will remain outside of this 25% rate.

SECTION 79 AMENDED FOR START UPS

Section 79 of the Income Tax Act provides conditions for carry forward and set off of losses in case of a company not being
a company in which the public are substantially interested. Clause (a) of this section applies to all such companies, except an eligible start-up as referred to in section 80-IAC, while clause (b) applies only to such eligible start-up.
Under clause (a), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.
Under clause (b), the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated. The said clause was inserted vide Finance Act, 2017 in order to facilitate ease of doing business and to promote start-up India.
(CONTD)

SECTION 79 AMENDED-CONTD

•To further facilitate ease of doing business in the case of an eligible start-up, it is proposed to amend section 79 so as to provide that loss incurred in any year prior to the previous year, in the case of closely held eligible start-up, shall be allowed to be carried forward and set off against the income of the previous year on satisfaction of either of the two conditions stipulated currently at clause (a) or clause (b). For other closely held companies, there would be no change, and loss incurred in any year prior to the previous year shall be carried forward and set off only on satisfaction of condition currently provided at clause (a)

SECTION 79 V/S DISTRESSED COMPANIES

•Thus it has been provided in newly substituted section 79 that the provision of this section shall not apply to those companies, and their subsidiary and the subsidiary of such subsidiary, where-

(i) the National Company Law Tribunal (NCLT) on a petition moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors, who are nominated by the Central Government, under section 242 of the Companies Act, 2013: and

(ii) a change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under section 242 of the Companies Act, 2013, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

•Further, it is also proposed that under section 115JB of the Act for calculating book profit, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced in cases of the above mentioned companies.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21and subsequent assessment years

54GB EXTENDED

•The existing provisions of the section 54GB of the Income-tax Act, *inter alia*, *provide for roll over benefit in respect of* capital gain arising from the transfer of a long-term capital asset, being a residential property owned by the eligible assessee. To be able to get benefit of this provision, the assessee is required to utilise the net consideration for subscription in the equity shares of an eligible company before the due date of filing of the return of income.

•The assessee is required to have more than fifty per cent share capital or more than fifty per cent voting rights after the subscription in shares in the eligible company. The said section, *inter alia*, *puts restriction on transfer of assets acquired by the company for five years from the date of acquisition. Currently the* benefit of this section was only available for investment in the equity shares of eligible start-ups and that period also got over on 31st March 2019. Thus, at present no benefit is available for residential property transferred after 31st March 2019.

•In order to incentivise investment in eligible start-ups, it is proposed to amend the said section so as to-
(i) extend the sun set date of transfer of residential property for investment in eligible start-ups from 31st March 2019 to 31st March 2021;
(ii) relax the condition of minimum shareholding of fifty per cent of share capital or voting rights to twenty five per cent.
(iii) relax the condition restricting transfer of new asset being computer or computer software from the current five years to three years.
This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

SHARE PREMIUM
START UP COMPANIES

- To resolve angel tax issue, start-ups and investors who file declarations will not be subject to scrutiny on valuation premiums.
- Start ups assessments not to happen without prior approval

AADHAAR, PAN ETC

•NRIs won't have to wait for mandatory 180 days after arriving in India to get Aadhar

•To ensure ease of compliance, it is also proposed to provide for inter-changeability of PAN with the Aadhaar number.

Accordingly the provisions of section 139A are proposed to be amended so as to provide that,-

(i) every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;

(ii) every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

In order to protect validity of transactions previously carried out through such PAN, it is proposed to amend the said proviso so as to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in the prescribed manner. These amendments will take effect from 1st September, 2019.

DEDUCTION OF INTEREST U/S 80EEA

Section 80EEA proposed to be inserted by the Finance (No.2) Bill, 2019 grants deduction of Rs.1,50,000 under Chapter VI-A which is in addition to the deduction of Rs.2 lakhs available under section 24. The salient features of section 80EEA are given below:

- Applicable to **individual taxpayers** only.
- In respect of interest payable on loan taken **from any financial institution** for the purpose of acquisition of a **residential house property.**
- The **maximum** amount of **deduction permissible is Rs.1,50,000** for the assessment year **2020-21** and **subsequent assessment years.**
- The loan must have been sanctioned at any time during the period from 01.04.2019 to 31.03.2020.
- The **stamp duty value** of residential house property must not exceed Rs.45 lakhs.
- The assessee **must not own any residential house property on the date of sanction of loan.**
- The **deduction** claimed under this section **shall not be allowed under any other provision of this Act for the same or any other assessment year.**

All the conditions stated above are to be satisfied cumulatively.

Clause	Present position	Proposed amendment
(d)	The project is on a plot of land measuring not less than1000 square metres where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai; or	The size of the project is the same but it covers now the housing projects located within the metropolitan cities of Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan region).
(e)	2000 square metres where the project is located in any other place.	Same condition retained.
(f)	The project is the only housing project on the plot of land specified in clause (d)	Same condition retained.

Clause	Present position	Proposed amendment
(f)	The carpet area of the residential unit comprised in the housing project does not exceed 30 square metres where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai; or	60 square metres where the project is located within the metropolitan cities of Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan region).
	60 square metres where the project is located in any other place.	90 square metres where such project is located in any other place.
(g)	A residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual.	This condition is retained but as clause (h). The proposed clause (g) says that the stamp duty value of a residential unit in the housing project must not exceed Rs.45 lakhs.

Clause	Present position	Proposed amendment
(h)	(i) The project utilizes not less than 90% of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai, or	Same condition retained but applicable for new cities also described in (d) above.
	(ii) Not less than 80% of the floor area ratio where such project is located in any place other than the place referred to in sub-clause (i) above; and	Same condition retained.

Clause	Present position	Proposed amendment
(i)	The assessee maintains separate books of account in respect of the housing project.	Same condition retained.

Comments

- The proposed amendment would cover housing projects located in **Bengaluru, Hyderabad and Delhi NCR covering Noida, Greater Noida, Ghaziabad, Gurugram and Faridabad.** In the case of Mumbai it would apply to ***whole of Mumbai Metropolitan Region.***
- Carpet area of residential unit has been increased
  - from **30 square metres** to **60 square metres-<u>for big cities</u>**
  - from **60 square metres to 90 square metres-**where the housing project is located in any other place.
- Also, it has **provided the cap for each residential unit** in the project at Rs.45 lakhs.
- The **proposed amendment will apply only in respect of housing project approved on or after 01.09.2019** and the term **'affordable housing'** under section 80-IBA must be interpreted by adopting the **definition given under the GST Act.** The quantum of tax relief remains the same viz. 100% of the profits of the housing project provided the project is completed within 5 years from the date of approval by the competent authority.

Conclusion

The amendments provide incentive to the buyers and at the same time provide the conditions for availing tax incentives for housing projects. These measures would provide great impetus to the sagging realty sector and could provide momentum in the days to come.

INTEREST ON LOAN FOR ELECTRONIC VEHICLES- SECTION 80EEB

•With a view to improve environment and to reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act so as to provide for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to one lakh fifty thousand rupees subject to the following conditions:

(i) the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1st April, 2019 to 31st March, 2023;

(ii) the assessee does not own any other electric vehicle on the date of sanction of loan.

It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in

respect of such interest under any other provisions of the Act for the same or any other assessment year.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-2021 and subsequent assessment years.

TDS on maturity proceeds of life insurance

- **In a blow to policyholders of life insurance policies, the government has proposed to levy 5% tax deducted at source (TDS) from maturity proceeds of life insurance policies.**
- Maturity proceeds arising out of death of a policyholder will continue to be exempted from TDS and taxes.
- The general impression of people that life insurance policies are tax-free is set to change.
- Currently, under Section 10 (10D) of the Income Tax Act, insurers deduct 1% TDS on maturity proceeds of life insurance policies if the premium paid is more than 10% of the sum assured. Further, if policyholders do not provide PAN card to insurers, it attracts a TDS of 20%.

TDS on Life Insurance(Contd)

- While policyholders can claim credit for the TDS deducted in income tax return, they will have to **pay taxes on the entire proceeds** if their policy **does not** meet these criteria
  - If annual premium **exceeds 20%** of the total sum-assured for insurance policies issued between **April 1, 2003** and **March 31, 2012**
  - If the annual premium **exceeds 10%** of the total sum assured on policies issued **after April 1, 2012**
  - If the annual premium **exceeds 15%** of the sum assured on policies issued **after April 1, 2013** to differently able insured
- It is proposed to amend the said section so as to provide that the levy of tax deduction at source shall be on the income comprised in the sum payable by way of redemption of a life insurance policy, including the sum allocated by way of bonus on such life insurance policy, **excluding the amount exempted under the said clause (10D)** of section 10 at the **increased rate of five per cent.**

TDS on Life Insurance(Contd)

- Further, the government would also deduct TDS on bonus payments.
- However, there will be no TDS on maturity proceeds arising out of death of a policyholder or if it is less than Rs. 1 lakh.
- Insurance experts feel that there is no justification for charging
- TDS on maturity proceeds only in life insurance policies and IRDAI should seek parity with other financial products.

TDS ON WITHDRAWALS

TDS on cash withdrawal exceeding Rs 1 crore in a year.2% TDS on cash withdrawal exceeding from a bank account in a year to discourage cash payments in business transactions.

MEASURES FOR PROMOTING LESS CASH ECONOMY

- U/S 13A, 35AD, 40A, 43(1), 43CA, 44AD, 80JJAA, 269SS, 269ST, 269T
- In order to encourage other electronic modes of payment, it is proposed to amend the above section so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.
- These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.
- Eg. UPI related payments etc

FACELESS SCRUTINY

•E scrutiny - faceless scheme to start this year without disclosing the name of Assessing Officer

THRESHOLD LIMIT RAISED

- Threshold for public shareholding in listed Cos is proposed to be raised from current 25% to 35%

PRE-FILLED RETURNS

•Prefilled tax returns to be made available to assesses having salary, cap gains and other income

NBFC-BAD DEBTS

•The existing provisions of section 43D of the Act, *inter-alia provides that interest income in relation to certain categories of* bad or doubtful debts received by certain institutions or banks or corporations or companies, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account actually received, whichever is earlier. This provision is an exception to the accrual system of accounting which is regularly followed by such assessees for computation of total income. The benefit of this provision is presently available to public financial institutions, scheduled banks, cooperative banks, State Financial Corporations, State industrial investment corporations and public companies like housing finance companies. With a view to provide a level playing field to certain categories of NBFCs who are adequately regulated, it is proposed to amend section 43D of the Act so as to include deposit-taking NBFCs and systemically important non deposit-taking NBFCs within the scope of this section.

•Consequentially, as per matching principle in taxation, it is proposed to amend section 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a deposit-taking NBFCs and systemically important non deposit-taking NBFCs shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

35AD

Investment linked incentives to select sectors under section 35 AD

INSERTION OF NEW SECTION-194M

1. Individuals and HUFs (not liable for tax audit) shall deduct tax from sum payable to resident contractor or professionals

[Applicable from September 1, 2019]

As per current provisions of Section 194C and Section 194J, an individual or HUF, who are not liable to tax audit under Section 44AB, shall not be required to deduct tax under these provisions. Thus, no tax is required to be deducted by an individual or HUF from payment made to contractor or professional in the following cases:

1. Payment made for services received for personal use
2. Payment made for services received for business or profession if payer is not subjected to tax audit.

194M (Contd)

Particular	Amount paid (Rs.)	Section	Rate of Deduction	Amount of TDS	Due date for deposit
Acquisition of land	50,00,000	194-IA	1%	50,000	July 30, 2019
Construction	65,00,000	194M	5%	3,25,000	January 30,2020*
Interior Decoration	70,00,000	194M	5%	3,50,000	March 1, 2020*
Painting	10,00,000	N/A	N/A	N/A	N/A

194M(Contd)

* Since amount paid is less than Rs. 50 lakhs no tax is required to be deducted

Note 1: No due date has been prescribed for deposit of tax deducted under section 194M. As two similar provisions are already there in Chapter XVII (Section 194-IA and 194-IB), it is possible that the due dates for deposit of tax under the new provisions of Section 194M shall be same, i.e., within 30 days from the end of the month in which tax is deducted.

AMBIT OF 194-IA ENLARGED

•Section 194-IA of the Act relates to payment on transfer of certain immovable property other than agricultural land and provides for levy of TDS at the rate of one per cent. on the amount of consideration paid or credited for transfer of such property. The term 'consideration for immovable property' is presently not defined for the purposes of this section. It is noted that in the transaction involving purchase of immovable property, there are other types of payments made besides the sales consideration and the buyer is contractually bound to make such payments to the builder/seller, either under the same agreement or under a different agreement.

•Some of such payments are those for rights to amenities like club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee etc. Accordingly, it is proposed to amend the Explanation to said section and provide that the term "consideration for immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property. This amendment will take effect from 1st September, 2019.

TAX ON GIFT TO NON RESIDENT

•Section 9 of the Act relates to Income deemed to accrue or arise in India. Under the Act, non –residents are taxable in India in respect of income that accrues or arises in India or is received in India or is deemed to accrue or arise in India or is deemed to be received in India. Under the existing provisions of the Act, a gift of money or property is taxed in the hands of donee, except for certain exemptions provided in clause (x) of sub-section (2) of section 56. It has been reported that gifts are made by persons being residents in India to persons outside India and are claimed to be non-taxable in India as the income does not accrue or arise in India.

•To ensure that such gifts made by residents to persons outside India are subject to tax, it is proposed to provide that income of the nature referred to in sub-clause (xviia) of clause (24) of section 2, arising from any sum of money paid, or any property situate in India transferred, on or after 5th July, 2019 by a person resident in India to a person outside India shall be deemed to accrue or arise in India. However, the existing provision for exempting gifts as provided in proviso to clause (x) of sub-section (2) of section 56 will continue to apply for such gifts deemed to accrue or arise in India. In a treaty situation, the relevant article of applicable DTAA

shall continue to apply for such gifts as well. This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

HIGH VALUE TRANSACTIONS V/S RETURN

Currently, a person other than a company or a firm is required to furnish the return of income only if his total income exceeds the maximum amount not chargeable to tax, subject to certain exceptions. Therefore, a person entering into certain high value transactions is not necessarily required to furnish his return of income. In order to ensure that persons who enter into certain high value transactions do furnish their return of income, it is proposed to amend section 139 of the Act so as to provide that a person shall be mandatorily required to file his return of income, if during the previous year, he:

(i) has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current account
maintained with a banking company or a co-operative bank; or

(ii) has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other
person for travel to a foreign country; or

(iii) has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption
of electricity; or

(iv) fulfils such other prescribed conditions, as may be prescribed. (contd)

contd

Further, currently, a person claiming rollover benefit of exemption from capital gains tax on investment in specified assets like house, bonds etc., is not required to furnish a return of income, if after claim of such rollover benefits, his total income is not more than the maximum amount not chargeable to tax . In order to make furnishing of return compulsory for such persons, it is proposed to amend the sixth proviso to section 139 of the Act to provide that a person who is claiming such rollover benefits on investment in a house or a bond or other assets, under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax. These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.

SECTION 285BA WIDENED

•Existing provisions of section 285BA of the Act, inter alia, provide for furnishing of statement of financial transaction (SFT) or reportable account by person specified therein.

•In order to enable pre-filling of return of income, it is proposed to obtain information by widening the scope of furnishing of statement of financial transactions by mandating furnishing of statement by certain prescribed persons other than those who are currently furnishing the same.

•It is also proposed to remove the current threshold of rupees fifty thousand on agragate value of transactions during a financial year, for furnishing of information, with a view to ensure pre-filling of information relating to small amount of transactions as well. In order to ensure proper compliance, it is also proposed to amend the provisions of sub-section (4) of aforesaid section so as provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the Act shall apply as if such person had furnished inaccurate information in the statement.

•Consequently, it is also proposed to amend the penalty provisions contained in section 271FAA so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA .

•These amendments will take effect from 1st day of September, 2019.

ACCEPTANCE OF PAYMENT THROUGH PRESCRIBED ELECTRONIC MODES

- In order to encourage other electronic modes of payment, it is proposed to amend the above section so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.
- These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.

Incentives to International Financial Services Centre (IFSC)

A) Under the existing provisions of the section 47 of the Act, any transfer of a capital asset, being bonds or Global Depository Receipts or rupee denominated bond of an Indian company or derivative, made by a non-resident through a recognised stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in foreign currency shall not be regarded as transfer.With a view to provide tax-neutral transfer of certain securities by Category III Alternative Investment Fund (AIF) in IFSC, it is proposed to amend the said section so as to provide that any transfer of a capital asset, specified in thE said clause by such AIF, of which all the unit holders are non-resident, are not regarded as transfer subject to fulfillment of specified conditions. It is also proposed to widen the types of securities listed in said clause by empowering the Central Government to notify other securities for the purposes of this clause. These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

B) With a view to facilitate external borrowing by the units located in IFSC, it is proposed to amend the section 10 of the Act so as to provide that any income by way of interest payable to a non-resident by a unit located in IFSC in respect of monies borrowed by it on or after 1st day of September, 2019, shall be exempt.

C) The existing provisions of the section 115-O of the Act, provide that no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an IFSC, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income, either in the hands of the company or the person receiving such dividend. (Contd)

Contd

•To facilitate distribution of dividend by companies operating in IFSC, it is proposed to amend the provision of the said section to provide that any dividend paid out of accumulated income derived from operations in IFSC, after 1st April 2017 shall also not be liable for tax on distributed profits.

•This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

D) The existing provisions of the section 115R of the Act, provide that any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income. In order to incentivize relocation of Mutual Fund in IFSC, it is proposed to amend the said section so as to provide that no additional income-tax shall be chargeable in respect of any amount of income distributed, on or after the 1st day of September, 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.

•This amendment will take effect from 1st September, 2019.

80LA DEDUCTION TO IFSC(contd)

E) The existing provisions of the section 80LA of the Act, inter alia, provide profit linked deduction of an amount equal to one hundred per cent of income for the first five consecutive assessment years and fifty per cent of income for the next five consecutive assessment years, to units of an IFSC.

•With a view to further incentivize operation of units in IFSC, it is proposed to amend the said section so as to provide that the deduction shall be increased to one hundred per cent for any ten consecutive years. The assessee, at his option, may claim the said deduction for any ten consecutive assessment years out of fifteen years beginning with the year in which the necessary permission was obtained.

•This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

80LA DEDUCTION TO IFSC(contd)

F) Section 115A of the Act provides the method of calculation of income-tax payable by a non-resident (not being a company) or by a foreign company where the total income includes any income by way of dividend (other than referred in section 115-O), Interest, royalty and fees for technical services; etc. Section 80LA, provides for deduction in respect of certain incomes to a unit located in an IFSC. However, sub-section (4) of section 115A prohibits any deduction under chapter VIA which includes section 80LA.

•In order to ensure that units located in IFSC claim full deduction, it is proposed to amend section 115A of the Act so as to provide that the conditions contained in sub-section (4) of section 115A shall not apply to a unit of an IFSC for under section 80LA is allowed.

•This amendment will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

RELAXATION OF FUND MANAGEMENT ACTIVITIES IN INDIA

Representations have been received for relaxing certain conditions in the implementation of regime of fund managers. To give an impetus to fund management activities in India, certain constraints are proposed to be removed by suitably amending section 9A of the Act, so as to provide that,-

i) the corpus of the fund shall not be less than one hundred crore rupees at the end of a period of six months from the end

of the month of its establishment or incorporation or at the end of such previous year, whichever is later; and

ii) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him

on its behalf is not less than the amount calculated in such manner as may be prescribed.

These amendments will take effect retrospectively from 1st April, 2019 and shall apply to the assessment year 2019-20 and subsequent assessment years.

INTEREST PAID ON RDB EXEMPT

•The existing provisions of section 194LC of the Act provide that the interest income payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond, or rupee denominated bond shall be eligible for TDS at a concessional rate of five per cent.

•In order to incentivise low cost foreign borrowings through Off-shore Rupee Denominated Bond, the press release dated 17th September, 2018, inter alia, announced that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from September 17, 2018 to March 31, 2019 shall be exempt from tax.

• Consequently, no tax was required to be deducted on the payment of interest in respect of the said bond. The exemption announced through the said press release is proposed to be incorporated in the law by amending section 10 of the Act so as to provide exemption to income payable by way of interest to a non-resident by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in section 194LC, during the period begining from the 17th day of September, 2018 and ending on the 31st day of March, 2019.

•This amendment will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent assessment years.

80C EXPANDED

- To enable the Central Government Employees to have more options of tax saving investments under National Pension System, it is proposed to amend the section 80C so as to provide that any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under the said section.
- These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

COMPLIANCE WITH THE NOTIFICATION OF EXEMPTION ISSUED UNDER SECTION 56(2)(VIIB)

If conditions prescribed in notification for certain categories of exempt companies as notified by Central Government are violated, the same will be deemed to be income of the said company in the respective previous year. (Applicable from A.Y. 2020-21) and exemption given in notification will not apply.

AMENDMENT TO SECTION 56(2)(viib)

Incentives for Category II Alternative Investment Fund (AIF)

•The existing provisions of the said section 56 of the Income-tax Act, *inter alia*, *provide that where a company, not being a* company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be charged to tax. However, exemption from this provision has been provided for the consideration for issue of shares received by a venture capital undertaking from a venture capital company or a venture capital fund or by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

•Currently the benefit of exemption is available to Category I AIF. With a view to facilitate venture capital undertakings to receive funds from Category II AIF, it is proposed to amend the said section to extend this exemption to fund received by venture capital undertakings from Category II AIF as well.

•This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

56(2)(x) AND 50CA AMENDED

Prescription of exemption from deeming of fair market value of shares for certain transactions:

•The existing provisions of the section 56(2)(x) of the Income-tax Act, *inter alia, provide for chargeability of income in case* of receipt of money or specified property for no or inadequate consideration. For determining the amount of income for receipt of certain shares, the fair market value of the shares is taken into account. Similarly, section 50CA provides for deeming of fair market •value of unquoted shares for computing the capital gains from the transfer of such shares. For both these provisions, the fair market value is determined based on the prescribed method. Currently, the provisions of section 56(2)(x) are not applicable to certain specified transactions. However, no such exemption is available under section 50CA.

•Determination of fair market value based on the prescribed rules may result into genuine hardship in certain cases where the consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination. In order to provide relief to such types of transactions from the applicability of sections 56(2)(x) and 50CA, it is proposed to amend these sections to empower the Board to prescribe transactions undertaken by certain class of persons to which the provisions of section 56(2)(x) and 50CA shall not be applicable.

•These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

INTEREST ON ENHANCED COMPENSATION

•The existing provisions of the section 56 of the Income-tax Act, *inter alia, provide that income by way of interest received on* compensation or on enhanced compensation referred to in section 145A(b) shall be chargeable to tax. The Finance Act, 2018 substituted the provisions of section 145A with sections 145A and section 145B. However, no consequential amendment is made in section 56.

•It is proposed to amend section 56 of the Act to provide the correct reference of section 145B(1) in section 56, in place of the existing reference of section 145A(b).

•This amendment will take retrospective effect from 1st April, 2017 and will accordingly apply in relation to assessment year 2017-18 and subsequent assessment years.

Online Filing

In the case of application u/s 195(2) and 195(7) for lower or nil TDS certificate, the same is now online w.e.f. 1st November, 2019.

Similarly, procedure for filing of statements u/s 206A for payment of interest without TDS is also made online w.e.f. 1/09/2019.

SECTION 115QA EXTENDED TO LISTED COMPANIES

•In order to curb such tax avoidance practice adopted by the listed companies, the existing anti abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange.

•Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, on or after 5th July 2019, shall also be covered by the provision of section 115QA of the Act. Accordingly, it is also proposed to extend exemption under clause (34A) of section 10 of the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company.

•These amendments will take effect from 5th July, 2019.

CANCELLATION OF REGISTRATION U/S 12AA

•In order to ensure that the trust or institution do not deviate from their objects, it is proposed to amend section 12AA of the Income-tax Act, so as to provide that,-

(i) at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, *inter alia*, *also satisfy himself about the compliance of the trust or institution to requirements of any other law which is* material for the purpose of achieving its objects;

(ii) where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

•These amendments shall be effective from 1st September, 2019.

FACILITATION OF DEMERGER OF IND-AS COMPLIANT COMPANIES

•One of the existing conditions for tax-neutral demergers is that the resulting company should record the property and the liabilities of the undertaking at the value appearing in the books of accounts of the demerged company. It has been represented that Indian Accounting Standards (Ind-AS) compliant companies are required to record the property and the liabilities of the undertaking at a value different from the book value of the demerged company. In order to facilitate, it is proposed to amend section 2 of the Act to provide that the requirement of recording property and liabilities at book value by the resulting company shall not be applicable in a case where the property and liabilities of the undertakings received by it are recorded at a value different from the value appearing in the books of account of the demerged company immediately before the demerger in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

•This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

RELAXING THE PROVISIONS OF SECTIONS 201IN CASE OF PAYMENTS TO NON-RESIDENTS

- The first proviso to sub-section (1) of section 201 specifies that the deductor shall not be deemed to be an assessee in default if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect.
- This relief in section 201 is available to the deductor, only in respect of payments made to a resident. In case of similar failure on payments made to a non-resident, such relief is not available to the deductor. To remove this anomaly, it is proposed to amend 16 the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, even in respect of failure to deduct tax on payment to non-resident.
- Consequent to this amendment, it is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).
- These amendments will take effect from 1st September, 2019 whereas **similar amendment made for section 40(a) will be applicable from 1/4/2020**.

AMENDMENTS IN SECTION 92CC AND 92CD

- It is proposed to amend sub-section (3) of section 92CD to clarify that in cases where assessment or reassessment has already been completed and modified return of income has been filed by the tax payer under sub-section (1) of said section, the Assessing Officers shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, having regard to and in accordance with the APA.
- This amendment will take effect from 1st September, 2019.

92CE AMENDED

In order to address such concerns and to make the secondary adjustment regime more effective and easy to comply with, it is proposed to amend section 92CE of the Act so as to provide that:-

(i) the condition of threshold of one crore rupees and of the primary adjustment made upto assessment year 2016-17 are alternate conditions;

(ii) the assessee shall be required to calculate interest on the excess money or part thereof;

(iii) the provision of this section shall apply to the agreements which have been signed on or after 1st April, 2017; however,

no refund of the taxes already paid till date under the pre amended section would be allowed;

(iv) the excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India;

AMENDED 92CE CONTD

(v) in a case where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of eighteen per cent on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax. The additional tax is proposed to be increased by a surcharge of twelve per cent;

(vi) the tax so paid shall be the final payment of tax and no credit shall be allowed in respect of the amount of tax so paid;

(vii) the deduction in respect of the amount on which such tax has been paid , shall not be allowed under any other provision of this Act; and

(viii) if the assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

The amendments proposed in para (i) to (iv) above will take effect retrospectively from the 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

Further, the amendments proposed in para (v) to (viii) will be effective from 1st September, 2019.

92D RATIONALIZED

•It is proposed to substitute section 92D of the Act, in order to provide that the information and document to be kept and maintained by a constituent entity of an international group, and filing of required form, shall be Applicable even when there is no international transaction undertaken by such constituent entity.

•It is also proposed to provide that information shall be furnished by the constituent entity of an international group to the prescribed authority.

•This amendment will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

STCG EXTENDED TO CPSE's

- In order to further incentivise these funds of funds, it is proposed to amend section 111A so as to extend the concessional rate of tax for short-term capital gains in respect of transfer of units of such fund of funds for disinvestment purposes.

- This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

PASS THROUGH OF LOSSES IN CASES OF CATEGORY I AND CATEGORY II ALTERNATIVE INVESTMENT FUND (AIF)

In order to remove the genuine difficulty faced by Category I and II AIFs , it is proposed to amend section 115UB toprovide that

(i) the business loss of the investment fund, if any, shall be allowed to be carried forward and it shall be set-off by it in accordance with the provisions of Chapter VI and it shall not be passed onto the unit holder;

(ii) the loss other than business loss, if any, shall also be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast twelve months;

(iii) the loss other than business loss, if any, accumulated at the level of investment fund as on 31st March, 2019, shall be deemed to be the loss of a unit holder who held the unit on 31st March, 2019 in respect of the investments made by him

18 in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI;

(iv) the loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of chapter VI.

These amendments will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

SECTION 89 RELIEF EXTENDED

- In view of the above, it is proposed to amend section 140A, section 143, section 234A, section 234B and section 234C so as to provide that computation of tax liability shall be made after allowing relief under section 89.
- These amendments will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-08 and subsequent assessment years.

ACCOUNTING YEAR OF PARENT COMPANY

•In order to address such concerns and to bring clarity in law, it is proposed to suitably amend section 286 so as to provide

•that the accounting year in case of the ARE of an international group, the parent entity of which is not resident in India, the reporting accounting year shall be the one applicable to such parent entity.

•This amendment is clarificatory in nature.

•The amendment will take effect retrospectively from the 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

AMENDMENT TO SECTION 270A

- In order to provide for manner of computing the quantum of penalty in a case where the person has under-reported income and furnished his return for the first time under section 148, it is proposed to suitably amend the provisions of section 270A.
- These amendments will take effect retrospectively from 1st April, 2017 and will, accordingly, apply in relation to assessment year 2017-2018 and subsequent assessment years.

AMENDMENT TO SECTION 276CC

•Since the intent of said provision has always been to take into account pre-paid taxes, while determining the tax payable, it is proposed to amend the said section so as to make the legislative intention clear and to include the self-assessment tax, if any, paid before the expiry of the assessment year, and tax collected at source for the purpose of determining tax liability.

•Further, in order to rationalise the existing threshold limit of tax payable under said section, it is further proposed to amend the said section so as to increase the threshold of tax payable from the existing rupees three thousand to rupees ten thousand.

•These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

AMENDMENT IN SECTION 228A

- In order to provide assistance in recovery of tax as per treaty obligation with the other country, it is proposed to amend the said section so as to provide for tax recovery where details of property of the persons are not available but the said person is a resident in India.
- It is also proposed to amend the said section so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.
- These amendments will take effect from 1st September, 2019.

REFUND BY FILING RETURN

- In order to simplify the procedure for claim of refund, it is proposed to amend the said section so as to provide that every claim for refund under Chapter XIX of the Act shall be made by furnishing return instead of form in accordance with the provisions of section 139 of the Act.
- This amendment will take effect from 1st September, 2019.

ENHANCING TIME LIMITATION FOR SALE OF ATTACHED PROPERTY UNDER RULE 68B OF THE SECOND SCHEDULE OF THE ACT

- The existing provisions of rule 68B of the Second Schedule of the Act provide that no sale of immovable property attachedtowards the recovery of tax, penalty etc. shall be made after the expiry of three years from the end of the financial year in which the order in consequence of which any tax, penalty etc. becomes final.In order to protect the interest of the revenue, especially in those cases where demand has been crystallised on conclusion of the proceedings, it is proposed to amend the aforesaid sub-rule so as to extend the period of limitation from three years to seven years
- In order to ensure that the limitation of time period for sale of attached property may not be an impediment in recovery of tax dues and may not lead to permanent loss of revenue to the exchequer, it is further proposed to insert a new proviso in the said sub-rule so as to provide that the Board may, for reasons to be recorded in writing, extend the aforesaid period of limitation by a
- further period of three years.
- These amendments will take effect from 1st September, 2019.

Rationalisation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

- In order to clarify the legislative intent behind enacting the BM Act, which was to tax such foreign income and assets, which were not charged to tax under the Income-tax Act, it is proposed to amend the said section so as to provide that the "assessee" shall mean a person being a resident in India within the meaning of section 6 of the Income-tax Act, in the previous year, or a person being a non-resident or not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, in the previous year, who was resident in India either in the previous year to which the income referred to in section 4 relates, or in the previous year in which the undisclosed asset located outside India was acquired. It is also proposed to provide that the previous year of acquisition of the undisclosed asset located outside India shall be determined without giving effect to the provisions of section 72(c) of the BM Act.
- Further, a clarificatory amendment is also proposed to be made to section 10 of the BM Act so as to include the expressions "re-assess" and "reassessment" in sub-section (3) and (4) of the said section.
- These amendments will take effect retrospectively from 1st July, 2015.

AMENDMENT TO BM ACT CONTINUED

- Provisions of section 144A of the Income-tax Act shall be applicable to the BM Act with necessary modifications
- Amendment is also proposed to be made in section 17 of the BM Act to clarify that the Commissioner (Appeals) may also vary the penalty order so as to enhance or reduce the penalty. This amendment will take effect from 1st September, 2019.

RATIONALIZATION OF IDS, 2016 PROVISIONS

•In order to address genuine concern of the declarants, it is proposed to amend the said section so as to provide that where the amount of tax, surcharge and penalty, has not been paid within the due date, the Central Government may notify the class of persons who may make the payment of such amount on or before a notified date, along with the interest on such amount, at the rate of one per cent of every month or part of a month, comprised in the period, commencing on the date immediately following
the due date and ending on the date of such payment.

•urther, the existing section 191 of the Finance Act, 2016 provides, *inter alia*, *that any amount of tax*, *surcharge or penalty* paid in pursuance of a Declaration made under the Scheme shall not be refundable.

•In order to address genuine concern of the declarants, it is proposed to amend the said section so as to provide that the Central Government may notify the class of persons to whom the amount of tax, surcharge and penalty, paid in excess of the amount payable under the Scheme shall be refundable.

•This amendment will take effect retrospectively from 1st June, 2016.

RATIONALIZATION OF STT PROVISIONS

- In order to rationalise the levy of STT where the option is exercised, it is proposed to amend the said section so as to provide that value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be the difference between the strike price and the settlement price.
- This amendment will take effect from 1st September, 2019.

AMENDMENT TO PBPT

- In order to clarify that no prior approval of the Approving Authority would be required in cases where notice under section 24(1) has been issued, it is proposed to suitably amend the provisions of section 23 of the PBPT Act.
- This amendment will take effect retrospectively from 1st November, 2016.

RATIONALIZATION OF PBPT-CONTD

•In order to rationalize the aforesaid provisions, it is proposed to amend the section 24 so as to provide that the period of ninety days in respect of provisional attachment of the property under section 24(3) and passing of order under section 24(4) shall be reckoned from the end of the month in which the notice under section 24(1) is issued.This amendment will take effect from 1st day of September, 2019.

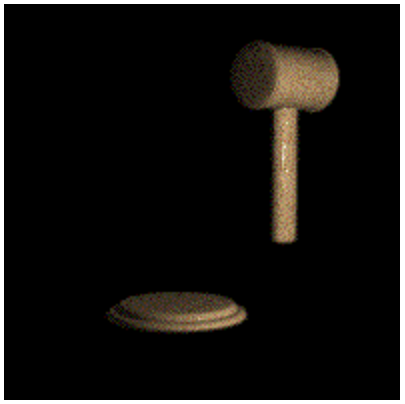
•In order to provide for the exclusion and adequate time to pass the order or make the reference, it is proposed to suitably amend the provisions of sections 24 and 26. This amendment will take effect from 1st September, 2019.

•With a view to rationalise the provisions, it is proposed to amend the said section so as to provide that no prosecution shall be instituted against any person in respect of any offence under the said Act without the previous sanction of the competent authority. This amendment will take effect from 1st September, 2019.

Issues for consideration

Queries please??????????????

- ??????????????



Thank you