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## 1. Rates of Income Tax

### 1.1 In the case of Non-Corporate Assessee Other than Firms/LLPs/Co-operative Societies

#### 1.1.1 Basic Slab Rates

For Resident Individuals (Other than Senior Citizen) / HUF/ AOP/ BOI/AJP like Trusts

| Taxable Incomes  | AY 2016- 2017<br>(01.04.2015 to<br>31.03.2016) | AY 2015- 2016<br>(01.04.2014 to<br>31.03.2015) |
|------------------|--|--|
| 0 – 250000       | NIL  | NIL  |
| 250001 – 500000  | 10%  | 10%  |
| 500001 – 1000000 | 20%  | 20%  |
| 1000001 +        | 30%  | 30%  |

For Resident Individuals (being Senior Citizen Assesseees >=60 Years < 80 Years)

| Taxable Incomes  | AY 2016- 2017<br>(01.04.2015 to<br>31.03.2016) | AY 2015- 2016<br>(01.04.2014 to<br>31.03.2015) |
|------------------|--|--|
|                  | >=60 years                                     | >=60 years                                     |
| 0 – 300000       | NIL  | NIL  |
| 30001 – 500000   | 10%  | 10%  |
| 500001 – 1000000 | 20%  | 20%  |
| 1000001 +        | 30%  | 30%  |

For Resident Individuals (being Very Senior Citizen Assesseees >= 80 years)

| Taxable Incomes  | AY 2016- 2017<br>(01.04.2015 to<br>31.03.2016) | AY 2015- 2016<br>(01.04.2014 to<br>31.03.2015) |
|------------------|--|--|
| 0 – 500000       | NIL  | NIL  |
| 500001 – 1000000 | 20%  | 20%  |
| 1000001 +        | 30%  | 30%  |

#### 1.1.2 Surcharge on Income Tax (Super Rich Tax)

The above Income Tax shall be increased by a surcharge of 12% of Tax from previous rate of 10% for persons whose total taxable income exceeds Rs. 1 Crore.

#### 1.1.3 Education Cess

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The above income tax and surcharge (where ever applicable) shall be increased (in every case) by an education cess @ 2% of and higher secondary cess @ 1% of income tax.

### 1.2 In the case of Firms & LLPs

| Taxable Incomes                 | AY 2016- 2017<br>(01.04.2015 to<br>31.03.2016) | AY 2015- 2016<br>(01.04.2014 to<br>31.03.2015) |
|---------------------------------|--|--|
| Where total income<br>< 1 Crore | 30% + 3% Cess<br>= <b>30.90%</b>               | 30% + 3%<br>Cess<br>= <b>30.90%</b>            |
| Where total income<br>> 1 Crore | 30% + 12% SC<br>+ 3% Cess<br>= <b>34.608%</b>  | 30% +<br>10%SC+3%<br>Cess<br>= <b>33.99%</b>   |

### 1.3 In the case of Co-operative Societies

#### a. With Total Taxable Income of less than or equal to Rs.1 Crore

| Taxable Incomes | AY 2016- 2017<br>(01.04.2015 to<br>31.03.2016) | AY 2015- 2016<br>(01.04.2014 to<br>31.03.2015) |
|-----------------|--|--|
| 0 – 10000       | 10%  | 10%  |
| 10001 - 20000   | 20%  | 20%  |
| Above 20000     | 30%  | 30%  |

Tax computed as above shall be increased by Cess @ 3%.

#### b. With Total Taxable Income of more than Rs.1 Crore

On the income tax computed as per (a) above there will be added a Surcharge of 10% on such income tax. The income tax derived after such addition will be further increased by Cess @ 3%. So for example if a co-operative society has got total taxable income of Rs.1,05,00,000/-. The tax thereon will be computed as under:

| Taxable Incomes      | Tax Rate                | Tax Payable |
|----------------------|-------------------------|-------------|
| 0 – 10000            | 10% of 1st<br>10,000    | 1,000       |
| 10001 - 20000        | 20% of Second<br>10,000 | 2,000       |
| Above 20,000         | 30% of balance          | 31,44,000   |
| Net Tax              |                         | 31,47,000   |
| Add: Surcharge @ 10% |                         | 3,14,700    |
| Add: Cess @ 3%       |                         | 1,03,851    |

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|                          |                  |
|--------------------------|------------------|
| <b>Total Tax Payable</b> | <b>35,65,551</b> |
|--------------------------|------------------|

**1.4 In the case of Domestic Companies**

| Taxable Incomes                             | AY 2016-2017<br>(01.04.2015 to 31.03.2016) |     |      |         | AY 2015-2016<br>(01.04.2014 to 31.03.2015) |     |      |        |
|---|--|-----|------|---------|--|-----|------|--------|
|   | Tax  | Sur | Cess | Total   | Tax  | S/c | Cess | Total  |
| Where Total income upto 1 Crore             | 30%  | 0%  | 3%   | 30.90%  | 30%  | 0%  | 3%   | 30.90% |
| Where Total income > 1 Crore up to 10 Crore | 30%  | 7%  | 3%   | 33.063% | 30%  | 5%  | 3%   | 32.45% |
| Where Total income > 10 Crores              | 30%  | 12% | 3%   | 34.608% | 30%  | 10% | 3%   | 33.99% |

**It is proposed to increase the rate of surcharge at the rate of 7% on domestic companies having income between 1 Crore to 10 Crore and at the rate of 12% on companies with annual income of Rs.10crore or more.**

**1.5 In the case of Companies Other Than Domestic Companies**

| Taxable Incomes              | AY 2016-2017<br>(01.04.2015 to 31.03.2016) |                           | AY 2015-2016<br>(01.04.2014 to 31.03.2015) |                           |
|------------------------------|--|---------------------------|--|---------------------------|
|                              | Royalties & Fees For Technical Services    | Any Other Business        | Royalties & Fees For Technical Services    | Any Other Business        |
| Where total income < 1 Crore | 50% + 3% Cess<br>= 51.50%                  | 40% + 3% Cess<br>= 41.20% | 50% + 3% Cess<br>= 51.50%                  | 40% + 3% Cess<br>= 41.20% |
| Where total                  | 50% + 2%                                   | 40% + 2%                  | 50% + 2%                                   | 40% + 2%                  |

| Taxable Incomes                             | AY 2016-2017<br>(01.04.2015 to<br>31.03.2016)       |  | AY 2015-2016<br>(01.04.2014 to<br>31.03.2015)    |  |
|---|---|--|--|--|
|   | Royalties<br>& Fees<br>For<br>Technical<br>Services | Any Other<br>Business                          | Royalties<br>& Fees For<br>Technical<br>Services | Any Other<br>Business                          |
| income<br>> 1<br>Crore up<br>to 10<br>Crore | SC+ 3%<br>Cess =<br><b>52.53%</b>                   | SC + 3%<br>Cess =<br><b>42.02%</b>             | SC + 3%<br>Cess =<br><b>52.53%</b>               | SC + 3%<br>Cess =<br><b>42.02%</b>             |
| Where<br>total<br>income<br>> 10<br>Crores  | 50% + 5%<br>SC + 3%<br>Cess =<br><b>54.075%</b>     | 40% + 5%<br>SC + 3%<br>Cess =<br><b>43.26%</b> | 50% + 2%<br>SC + 3%<br>Cess =<br><b>52.53%</b>   | 40% + 2%<br>SC + 3%<br>Cess =<br><b>42.02%</b> |

## **2. Amendments relating to Salary Income**

### **2.1 Transport allowance exemption doubled**

Earlier deduction from salary in respect of Transport allowance was allowed upto Rs.800 per month which is now doubled to Rs.1,600 per month w.e.f Assessment Year 2016-17 onwards (Financial Year 2015-16). Rule 2BB of the Income Tax Rules, 1962 stands suitably amended to that extent.

## **3. Amendments relating to Income from Business & Profession**

### **3.1 Rationalisation of the provisions relating to additional depreciation on manufacturing plant and machinery**

#### **(W.e.f Assessment Year 2016-2017)**

- a. Additional depreciation @ 20% is allowed on new plant and machinery installed by a manufacturing unit or a unit engaged in generation and distribution of power. However, if the asset is installed after 30th September of the previous year only 10% of the additional depreciation is allowed. It is proposed to allow the remaining 10% of the additional depreciation in the subsequent previous year.
- b. It is proposed that in case the investments are made in plant and machinery in any notified backward areas in the

State of Andhra Pradesh and the State of Telangana additional depreciation of 35% will be allowed as against 20% that is generally allowed as stated above.

### **3.2 Additional Investment Allowance**

It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if the conditions/restrictions that are being prescribed are as under:

- a. The asset so acquired is meant for use in the manufacture of any article or thing
- b. The asset is acquired by an undertaking of an assessee that is set up in any notified backward areas of Andhra Pradesh & Telangana
- c. The asset so purchased is acquired & installed on or after 01.04.2015 but before 31.03.2020

In the absence of any restrictive provisions, the deduction shall be over and above the deductions that are being allowed under section 32AC of the Act, pertaining to investment allowance for investment in new manufacturing assets of a value that is in excess of Rs.25 Crores, subject to meeting the definition of the term “New Asset” as mentioned under Section 32AC.

***These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2016-17 onwards.***

### **3.3 Amendments in Tax on Royalties and Fees for technical services (FTS) [S. 115-A]**

Section 115A of the Income Tax Act, 1961 provides for taxation of income of a non-resident by way of Royalties/ FTS under an agreement entered after 31-03-1976. The proposed amendment is made to override the rate of tax of 25.75% (including Cess @ 3%) introduced in Finance Bill 2013 by reducing it to 10.3% (including Cess @ 3%) **w.e.f. 01-04-2015 (AY 2016-17).**

However, the lower rate of tax withholding provided by the above amendment shall be subject to the PAN requirements as provided for under section 206AA of the Income Tax Act.

### **3.4 Amendments to MAT Provisions for income from AOP & Capital Gains by FIIs**

Minimum alternate tax (MAT) is chargeable on Book Profits as computed in the manner prescribed by Section 115JB.

The computation of the book profits is being amended to a limited extent.

- a. In the case of a Company that has any share of income from an AOP (association of persons) &/or has any share in expenses thereof, the said expenses and incomes shall not be considered for computing the Company's book profits;
- b. In the case of a FII (foreign institutional investor) that has any income arising under the head capital gains arising from STT based transactions in securities in accordance with the relevant SEBI regulations, the said incomes and the entailing expenses shall not be considered for computing the Company's book profits.

### **3.5 Insertion of new section 9A dealing with certain activities not to constitute business connection in India**

In the case of off-shore funds, under the existing provisions, the presence of a fund manager in India may create sufficient nexus of the off-shore fund with India and may constitute a business connection in India even though the fund manager may be an independent person. Similarly, if the fund manager located in India undertakes fund management activity in respect of investments outside India for an off-shore fund, the profits made by the fund from such investments may be liable to tax in India due to the location of fund manager in India and attribution of such profits to the activity of the fund manager undertaken on behalf of the off-shore fund. Therefore, apart from taxation of income received by the fund manager as fees for fund management activity, income of off-shore fund from investments made in countries outside India may also get taxed in India due to such fund management activity undertaken in, and from, India constituting a business connection. Further, presence of the fund manager under certain circumstances may lead to the off shore fund being held



to be resident in India on the basis of its control and management being in India.

In order to avoid such unnecessary taxation consequences in India in respect of Income from offshore investments & to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfillment of certain conditions by the fund and the fund manager.

- (i) The tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
- (ii) That income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments has been undertaken through a fund manager located in India.

Notwithstanding anything contained in section 9 and subject to the provisions of this section, in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

The eligible investment fund, means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfills the following conditions, namely:—

- a. The fund is not a person resident in India;
- b. The fund is a resident of a country or a specified territory with which an agreement, being a tax treaty (also known as DTAA), referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into;
- c. The aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent. of the corpus of the fund;
- d. The fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

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- e. The fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;
- f. Any member of the fund along with connected persons shall not have any participation Interest, directly or indirectly, in the fund exceeding ten percent
- g. The aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty percent
- h. The fund shall not invest more than twenty percent of its corpus in any entity;
- i. The fund shall not make any investment in its associate entity;
- j. The monthly average of the corpus of the fund shall not be less than one hundred crore rupees:
- k. Provided that if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year;
- l. The fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;
- m. The fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;
- n. 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 arm's length price of the said activity

The eligibility of a fund manager, in respect of eligible fund investment fund, means any person who is engaged in activity of fund management & fulfills the following conditions namely :-

- a. The person is not an employee of the eligible investment fund or a connected person of the fund,
- b. The person is registered as a fund manager or an investment advisor in accordance with the SEBI regulations in this regards;
- c. The person is acting in the ordinary course of his business as a fund manager,
- d. The person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty per cent of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager;

In addition to the above, an eligible investment fund referred to above shall be required to file a statement every 90 days in the prescribed manner & form confirming thereby that it continues to remain so eligible.

It is pertinent to note that this provision is not providing any exemption to the part or whole of the income of the eligible investment fund that in any case is liable to Indian Income Tax. These provisions are only providing a much needed shield to the eligible investment fund's income accruing or arising outside India where such incomes have arisen on account of investment decisions by fund managers located in India.

#### **4. Deemed Income in the hands of a non-resident entity clarified**

##### **Amendments will be effective from 01.04.2015 (AY 2016-17)**

Income from a property or an asset or a capital asset situated in India is deemed to accrue or arise in India. A share or interest in a non-resident entity is deemed to be situated in India where such share or interest derives its value substantially from an asset (whether tangible or intangible) that is situated in India.

So for example if ABC PLC, UK holds shares in XYZ Pvt Ltd, an Indian Company, where XYZ owns a large land bank in India. The shares of ABC PLC, UK have substantial value owing largely to its investment in XYZ India. In its turn ABC, UK transfers its shares to PQR PLC, UK. The question that arose is whether such transfer of the shares of ABC PLC, UK to PQR PLC, UK outside India will attract an Indian Tax.

In order to provide more clarity and objectivity in dealing with such transactions, it is proposed to clarify that a share or interest in a non-resident entity is said to draw substantial value from an asset situated in India where:

- a. The value of the asset in India, valued in the prescribed manner, exceeds Rs.10 crores; and
- b. That such value represents 50% or more of the total value of assets, computed in the prescribed manner, of the said non-resident entity.

On the other hand it is also proposed to clarify that no income will arise in the hands of a non-resident entity from transfer of

shares or other interest in such entity to another non-resident entity where:

- a. The asset in India as referred to above is directly or indirectly owned by such non-resident entity; and
- b. The transferor of such asset, neither directly nor indirectly, holds more than 5% of the total voting power or share capital or other interest in the said non-resident Company or entity for a period of more than 12 months prior to the date of such transfer;

It is also proposed to be clarified that in case other than the one stated in para 4 above, the income attributable to & as is deemed to accrue or arise in India shall be restricted to the value of the assets located in India as computed in the prescribed manner.

At times it may also happen that the said foreign Company amalgamates or demerges into another foreign Company. In such cases, a concession from capital gains tax has been proposed under the Act. The transfer of shares of the said foreign Company under such scheme of amalgamation or demerger will not amount to transfer of a capital asset for the purpose of capital gains where:

- a. Atleast 25% of the existing shareholders of the non-resident entity become the shareholders of the amalgamated non-resident entity;
- b. Atleast 75% of the existing shareholders of the non-resident entity become the shareholders of the demerged non-resident entity;
- c. Such transfer under the scheme of amalgamation or demerger does not attract capital gains tax in the country in which such foreign Company is incorporated or is resident in.

Provisions in form of Explanation 6 & 7 to Section 9(1)(i) & section 47 (vi ab) & (vi cc) are being introduced to give effect to the above proposals.

## **5. Amendments relating to Public Charitable Trusts**

**Amendments will be effective from 01.04.2015 (AY 2016-17)**

### **5.1 Yoga included in definition of charitable purpose**

It is proposed to include 'Yoga' as part of charitable purposes. In that sense a Not for Profit Organisation that is engaged in

the provision of any activities relating to Yoga are proposed as carrying on a charitable activity.

## **5.2 Rationalisation of business activities vis-a-vis charitable purposes**

At the moment, Trusts that are engaged in the carrying on of any activity in the nature of trade or commerce for a fee or other consideration are deemed as not carrying on a charitable activity to the extent of such business or venture.

It is proposed that in case where the Trust is able to fulfill the following conditions, the Trust will not be deemed to have carried on any business activities:

- a. The activity in question is carried on in the course of fulfillment of the Trust's charitable objects; and
- b. The aggregate receipts from such activity during the relevant previous year do not exceed 20% of the gross receipts of the Trust for the said previous year.

## **5.3 Procedural changes in exercise of options for deferment of expenses for charitable purposes**

There are times when the Trust is unable to spend the prescribed sums of 85% within the same previous year. The Act envisages non-receipt of income, accumulation for future expenditure, etc. as reasons for such shortfalls. In order that such shortages are not treated as the incomes of the Trust liable to tax, the Trusts are given an opportunity to exercise an Option of making good these shortages in the succeeding previous years by way of a written option letter on or before the due date of filing the income tax return by the Trust.

It is proposed that the exercising of the said options are proposed to be subject to the following additional prescriptions:

- a. A new form is being prescribed for exercising such options;
- b. The option of income accumulation for future use by a Trust shall be restricted to a period not exceeding 5 years as against 10 years at the moment unless the project or activity for which such funds have been set apart is subject to any injunction or order by the Court. In case of such injunction or order, the period covered by such a pronouncement will be excluded for the purpose of computing the period of 5 years;

- c. In case of exercise of option of income accumulation for future use, the exercising of such option will be invalidated where the Trust exercising the option has not filed its return of income on or before the due date of filing the income tax return by the Trust.

Provisions of section 11(1), 11(2) & 13 are being suitably amended.

## **6. Exemption from Capital Gains on Consolidation of MFs**

At present transfer of shares for new shares in the amalgamated or demerged Company by a shareholder under a scheme of amalgamation or merger does not amount to a transfer of capital asset, subject to conditions, & hence, such transfer is not liable to capital gains tax.

A similar provision is now being proposed in the case of consolidation of Mutual Funds. Under the proposed provisions, transfer of unit(s) of MFs by a unit holder against receipt of fresh units of the consolidated MF shall not amount to a transfer. The said transfer will not amount to a switch in and switch out as is the matter at the moment. The proposed provisions have envisaged a consolidation as being a consolidation of 2 or more equity oriented funds or 2 or more funds not being equity funds.

## **7. Exemptions & Deductions**

### **7.1 Exemption for investment in relation to a girl child**

In order to give an impetus to the education & well being of the girl child it is proposed to provide an exemption in relation to interest income or principal repayment arising from contribution made into an account opened in accordance with the Sukanaya Samridhi Account Rules, 2014.

The said contribution is being touted as being another form of PPF scheme. The salient features of the said scheme are as under:

- a. A legal guardian of the girl child will be permitted to contribute as little as Rs.1000 to a maximum of Rs.1,50,000 into the scheme every year;
- b. The account will be opened in the name of the girl child;
- c. The said legal guardian can open a maximum of 2 such accounts in the name of 2 different girl child;

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- d. The age of the girl child in whose name the account is opened must not be more than 10 years of age. A concession for a girl child on or after 2.12.2003 but before 1.12.2004 has been given where the account opening is concluded on or before 1.12.2015;
- e. Interest at the rate of 9.1% pa will be paid on the balances;
- f. 50% of the amounts in the account will remain locked till the girl child turns 18yrs of age;
- g. The account can be closed after the girl child attains 21 years of age;
- h. At the option of the girl child the account can be continued beyond 21 years of her age without any additional contribution. The balances will continue to earn interest @ 9.1% pa;
- i. The account will be allowed to be closed between the age of 18 to 21 of the girl child where the girl child gets married in the interim. Nevertheless, the closure will be treated as if it were a premature closure of account;
- j. A dormant account can be revived with a mere penalty of rs.50 & minimum contribution of Rs.1000.

Contribution to this account by a legal guardian is being allowed u/s.80C as part of the overall ceiling of Rs.1,50,000/-

Section 10(11A) is being introduced w.e.f. 01.04.2015 (AY 2016-17) to provide for the exemption as stated above.

### **7.2. Amendments relating to Deductions under Chapter VIA**

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- a. Amendments to provisions relating to exemptions from income tax and deductions under chapter VIA of the Act have been tabulated here under:

| <b>Section Ref</b> | <b>Basis of Deductions</b>   | <b>Proposed Deduction (Rs.)</b> | <b>Existing Allowability</b> |
|--------------------|--|---------------------------------|------------------------------|
| <b>80CCC</b>       | Deduction to an individual for contributions made to certain Pension Funds | 1,50,000/- <sup>1</sup>         | 1,00,000/-                   |
| <b>Sec</b>         | Deduction to an  | 1,50,000/- <sup>1</sup>         | 1,00,000/-                   |

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<sup>1</sup> Deduction u/s.80C, 80CCC & 80CCD shall not exceed Rs.150000/-

Part I – Direct Taxes

| Section Ref     | Basis of Deductions   | Proposed Deduction (Rs.)   | Existing Allowability                        |
|-----------------|---|--|--|
| <b>80CCD</b>    | individual in respect of contribution to pension scheme of Central Govt   | Additional Rs.50,000/- shall be allowed on contributions made to New Pension Scheme. |  |
| <b>Sec 80D</b>  | <p>Deduction to an individual or HUF for contributions made towards Health Schemes</p> <p>Premium Payments: (Including 5,000/- for health checkup)</p> <p>When paid for self being a non-senior citizen for self or spouse &amp;/or child</p> <p>When paid for self being a senior or very senior citizen</p> <p>When amount incurred on medical expenditure by very senior citizen(&gt;=80years of age in previous year)</p> | <p>25,000/-</p> <p>30,000/-</p> <p>30,000/-</p>                                      | <p>15,000/-</p> <p>20,000/-</p> <p>N I L</p> |
| <b>Sec 80DD</b> | Deduction to an individual or HUF in respect of maintenance   |  |  |



Part I – Direct Taxes

| Section Ref                  | Basis of Deductions   | Proposed Deduction (Rs.) | Existing Allowability |
|------------------------------|---|--------------------------|-----------------------|
|                              | including medical treatment of a dependent who is person with disability -<br><br>For person suffering from disability  | 75,000/-                 | 50,000/-              |
|                              | For person suffering from severe disability   | 1,25,000/-               | 1,00,000/-            |
| <b>Sec 80DDB<sup>2</sup></b> | Deductions in respect of medical treatment for prescribed diseases & ailments (being chronic and protracted diseases)<br><br>Where such payments are made for a very senior citizen or by very senior citizen for himself/herself | 80,000/-                 | 40,000                |
| <b>Sec 80U</b>               | Deduction to an individual in respect medical expenses where such individual suffers from disability<br><br>For person  | 75,000                   | 50,000                |

<sup>2</sup> The first proviso of section 80DDB has been amended to permit a medical certification from a specialist who may or may not be a doctor working in a Government hospital.

## Part I – Direct Taxes

| Section Ref    | Basis of Deductions   | Proposed Deduction (Rs.)   | Existing Allowability |
|----------------|---|--|-----------------------|
|                | suffering from disability<br><br>For person suffering from severe disability      | 1,25,000   | 1,00,000              |
| <b>Sec 80G</b> | Deductions in respect of Donations to certain funds, charitable institutions etc. | It is proposed to allow 100% deduction for Donations made towards National Fund for Control of Drug Abuse, Swachh Bharat Kosh & Clean Ganga Fund. <sup>3</sup> | NA                    |

### b. Deduction in respect of employment of new workmen

Under the existing provisions of section 80JAA an Indian Company is allowed deduction of 30% of the wages of every regular workman<sup>4</sup> employed over and above 100 workmen subject to the fact that the Company is engaged in the manufacture of goods in a factory. The said deduction is so allowed for a period of 3 assessment years starting from the year in which the employment is granted.

It is proposed to reduce the qualifying number of regular workmen to 50 employees. It is further proposed that the benefit of such deduction will be allowed even to Companies that are not Indian Companies

***It is proposed to make the above amendments applicable from 1<sup>st</sup> April 2015 (i.e. AY 2016 – 2017).***

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<sup>3</sup> Contribution to Swachh Bharat Fund & Clean Ganga Fund will not be allowed under 80G where such funds are spent to meet the Corporate Social Responsibility obligations of the assessee under the Companies Act, 2013.

<sup>4</sup> Regular workmen do not include workmen who are employed as casual workers or where such workmen are employed through contract labour or where such workmen are employed for less than 300 days in a year.

## **8. Amendments relating to Domestic Transfer Pricing provisions**

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### **8.1 Meaning of Specified Domestic transactions [Sec. 92BA]**

Section 92BA has been amended in order to give effect to the increase in limit for Specific Domestic Transaction [SDT] from Rs 5 crores to Rs. 20 crores.

*It is proposed to make the above amendment applicable from 1st April 2015 (AY 2016 – 2017)*

## **9. Amendments relating to TDS/ TCS [Chapter XVII-B]**

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**It is proposed to make the foregoing changes applicable from 1st June 2015 (for AY 2016-17)**

### **9.1 Particulars of investments & losses to be obtained by employer in a prescribed form for the purpose of TDS on Salary u/s.192**

A new form is being prescribed for declaration by an employee of all the tax saving investments & allowable losses that are required to be factored while computing the TDS obligation of the employer u/s.192. At present there is no such form prescribed and therefore, every employer takes the required details from the employees in their self created formats.

### **9.2 TDS on Payment of accumulated balance due to an employee [New Section 192A is inserted]**

As such section 10(12) provides complete exemption to an assessee, being an employee, from income tax on withdrawals from a recognised provident fund. In some circumstances, the said withdrawals do not fulfill the conditions of Rule 8 of Part A of the Fourth Schedule to the Act & therefore, become liable to income tax. At times the employee may have not completed 5 years of continuous service with an employers or has not transferred the balance in his account to a new account after changing his employer. These violations make the receipts from the EPF account to the employee liable to income tax in his hands. In absence of any tax withholding provisions, it was left upto the employee to report the said incomes & pay income tax thereon.

It is now proposed to introduce tax deduction at source (TDS) at the rate of ten per cent on such withdrawals by the concerned officer of the EPF scheme. TDS will not be done where the income payable to the assessee as above is less than Rs.30,000. On the other hand, TDS will be done at the maximum marginal rate of 30% where the assessee fails to provide his or her PAN to the concerned officer of the EPF scheme.

### **9.3 Amendments relating to TDS on specified Interest payments [194A]**

- a. At present TDS is not required to be done by a bank or a co-operative society and a public company where the sums paid or payable as interest do not exceed Rs.10,000 and Rs.5000 respectively. The said threshold limit is computed by the said entities with respect to every branch of such entities. So for example, if Mr.X has a time deposit with the Fort branch of BOI & another one with the Opera House Branch of BOI, each unit will give the benefit of such threshold to the payee.

It is now proposed that such branch wise computation of threshold exemption will be allowed only where the bank or a co-operative society or a public company has adopted core banking solutions. In other words where the said core banking solutions are not adopted the threshold limit will not exceed Rs.10000 or Rs.5000 as is allowed for each branch separately.

- b. It is also proposed to introduce TDS on interest from recurring deposits just like it is the case with time deposits.

#### **9.4 Amendment relating to Transporters for TDS on Contract [194C]**

Finance Bill, 2010 allowed a blanket benefit of 0% TDS u/s.194C where the contract fee was paid to a transporter.

It is now proposed that the said benefit of 0% TDS u/s.194C will be restricted to such transport contractors who own 10 or less than 10 goods carriages. In order that the deductor can satisfy its TDS obligations under the Act, the deductor must obtain from the said transport contractor a declaration in writing stating clearly that it owns 10 or less goods carriages along with its PAN.

As a consequence of this amendment, the deductor will now have to start deducting tax at source @ the prescribed rate of 1% or 2% as the case may be for all transporters who own more than 10 goods carriages.

#### **9.5 Amendments relating to TDS on Rent [194I]**

It is proposed that no deduction shall be made where the income by way rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.

#### **9.6 Amendment in relation to Form 15CA / CB under Section 195**

In case of incomes tax was not chargeable to Indian Income tax; the payer exercised the discretion of not furnishing Form 15CA / CB.

It is proposed to plug this by providing that irrespective of whether the income is liable or chargeable to Indian income tax, information will have to be provided in form 15CA/CB by the payer.

#### **9.7 Applicability of Form 15G/H expanded by amendment to section 197A**

At the present any person other than a Company and a firm are permitted to issue a self declaration in Form 15G/H for

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requiring the deductor to avoid doing TDS on incomes like interest covered by section 193 & 194A.

Apart from the above, it is now proposed to give an opportunity to issue such a declaration for non-deduction of tax at source in case of TDS on:

- a. Sums received or receivable from out of the accumulated funds lying with the EPF authorities covered by the new provisions of section 192A;
- b. Sums received or receivable from an insurer under life insurance policy as covered by the provisions of section 194DA.

### 9.8 Frequently required TDS Rates for AY 2016-17

| Sec               | Nature of payment                                      | Annual Threshold | Rates for Indl./ HUF | Rates in other cases |
|-------------------|--|------------------|----------------------|----------------------|
| 192               | Salaries   | NA               | Average rate         | NA                   |
| 192A <sup>5</sup> | Payment of accumulated balance due to an employee      | 30,000           | 10%                  | NA                   |
| 194A              | Interest other than interest on securities (By Bank)   | 10,000           | 10%                  | 10%                  |
| 194A              | Interest other than interest on securities (By others) | 5,000            | 10%                  | 10%                  |
| 194C              | Contracts – Single transaction                         | 30,000           | 1%                   | 2%                   |
| 194C              | Contracts – Annual Aggregate                           | 75,000           | 1%                   | 2%                   |
| 194H              | Brokerage/ Commission                                  | 5,000            | 10%                  | 10%                  |
| 194I              | Rent – Immovable property                              | 1.8 Lakhs        | 10%                  | 10%                  |
| 194I              | Rent – Machinery, Furniture, equipment                 | 1.8 Lakhs        | 2%                   | 2%                   |
| 194-IA            | Purchase of Immovable Property                         | 50 Lakhs         | 1%                   | 1%                   |

<sup>5</sup> Applicable from 01-04-2015( AY :2016-17)

| Sec    | Nature of payment  | Annual Threshold | Rates for Indl./ HUF | Rates in other cases |
|--------|--|------------------|----------------------|----------------------|
| 194J   | Professional Fees  | 30,000           | 10%                  | 10%                  |
| 194J   | Amounts paid to Directors (not being employees of the co.)   | NA               | 10%                  | 10%                  |
| 194L A | Compensation on compulsory acquisition of immovable property | 2,00,000         | 10%                  | 10%                  |
| 206A A | Where deductee does not hold PAN or the PAN is invalid       | Various          | 20%                  | 20%                  |

## 10. Other Key Amendments

### 10.1 Wealth tax abolished - extra 2% surcharge on super rich

Asking the rich and wealthy to pay higher tax, Finance Minister Arun Jaitley abolished the wealth tax but increased the surcharge to 12 per cent on persons other than domestic and non-domestic companies having a taxable income of Rs 1 crore and above annually and to 7% on domestic companies with taxable income of Rs 10 crores or less and 12% on taxable income greater than 10 crores.

The new measures will lead to tax collection of Rs 9,000 crore approximately vis-a-vis the wealth tax could earn only Rs 1,008 crore in the previous fiscal year.

***It is proposed to make the above amendments applicable from 1<sup>st</sup> April 2015(Assessment Year 2016-17)***

### 10.2 Amendments in Residential Status [Sec 6]

#### 10.2.1 Residential status of a crew member on a foreign bound ship [Sec 6 (1)]

It is has proposed to bring about uniformity in the method of computing period of stay in India for the purpose of determining the residential status of Indian seafarer whether working on a Indian flagged or Foreign flagged vessel/ship. An Explanation 2 to section 6(1) of the Income Tax Act has been proposed to

provide for residential status of a crew member, being an Indian citizen, on a foreign bound ship, where the voyage destination is outside India shall be determined in the manner and subject to the conditions as may be prescribed.

### **10.2.2 Residential status of a company [Sec 6(3)]**

It is proposed to amend the determination of the residential status of a Company. It is proposed to introduce a new concept of 'Place of Effective Management' (POEM). In line with the DTAA's & the international standards in this regard a Company is said to be resident in India where:

- a. The Company is an Indian company; or
- b. The Company's place of effective management, at any time in that year, is in India.

The place of effective management is proposed to be defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as whole are, in substance, made.

## **11. Measures to curb generation & circulation of Black Money**

### **11.1 Quoting PAN Number is mandatory in specified cases**

PAN is a common link to corroborate and test the veracity of transactions. Quoting of PAN is being made mandatory for any purchase or sale exceeding the value of Rs.1 lakh. The third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions. Provision is also being made to tackle splitting of reportable transactions. To improve enforcement, CBDT and CBEC will leverage technology and have access to information in each other's database.

### **11.2 Amendments in Section 269SS & 269T**

To curb the generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS, of the Income Tax Act so as to ensure that no person shall accept from any other person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank



account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

The Finance Bill 2015 also proposes to amend section 269T of the Income tax Act, so as to ensure that no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more. The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively.

### **11.3 Deferment of provisions relating to General Anti Avoidance Rule (GAAR)**

The existing provisions of the General Anti Avoidance Rule (GAAR) introduced by the Finance Act, 2013 as contained in Chapter X-A which were about to be introduced from the Financial year 2015-16 shall be further deferred for a period of 2 years and shall be applicable from the FY 2017-18

## **12. Amendments relating to Assessment procedures.**

### **12.1 Computation of Interest for defaults in payments of Advance Tax in specific situations [Sec 234B]**

Section 234 B of the Income Tax Act deals with interest payment on defaults made in payment of Advance Tax.

It is proposed to rationalise the levy of interest on such short payment of advance tax where an application is made to the settlement commission. In that situation, it is proposed that the interest shall be levied as under:

- a. Simple interest rate of 1% shall be levied on the tax due for the period starting from 1st day of April of the relevant

assessment year to the date of making an application before the settlement commission;

- b. Simple interest rate of 1% shall be levied on the increased tax dues, if any as may be determined by the Settlement Commission, for the period starting from 1st day of April of the relevant assessment year to the date of such order by the settlement commission.

### **12.2 Revision for orders passed which are prejudicial to the revenue [Sec 263]**

An Explanation 2 has been introduced by Finance Bill 2015 dealing with revisions of orders passed by the Income Tax Officers. It is proposed that such revisionary powers can be exercised in cases where the orders passed were detrimental to the interest of revenue and in the opinion of the Principal Commissioner or Commissioner,

- the order is passed without making inquiries or verification which should have been made;
- the order is passed allowing any relief without inquiring into the claim;
- the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

### **12.3 Adjustment of cash seizures towards tax liability [Sec 132B]**

In search cases, it is proposed to allow seized cash to be adjusted towards the assessee's tax liability under his settlement application.

## **13. Conclusion**

With a promise to reduce the corporate tax rates from 30% to 25% in the next 4 years is indeed a mouth watering proposition. The road map in this regard has not been made public so far.

Abolishment of Wealth Tax was a much needed measure that will not only reduce the procedural burden from the department but also provide much needed relief to the assessee.

The Finance Minister seems to have formally bid adieu to the much discussed and speculated Direct Tax Code. Since most of the provisions of the DTC are already included in the Income Tax Act and jurisprudence under the Income Tax Act is well evolved, DTC will add no real value in its present form.

