STRICTLY FOR PRIVATE CIRCULATION FOR CLIENTS ONLY

HIGHTLIGHTS OF BUDGET 2018 – 2019

DIRECT TAX PROPOSALS:

- There is no change in rates of non-corporate tax.

- Existing Education Cess and Secondary and Higher Secondary Education Cess at the rate of 2% and 1% respectively shall be replaced by Health and Education Cess at the rate 4% in case of all assesses – No Marginal Relief will be allowed for this new cess. **In short, instead of 3%, now it will be 4% tax rate.**

- **Corporate Tax Rate (Domestic Companies) :**

  - In case of domestic company, the rate of income-tax shall be 25% of the total income if the total turnover or gross receipts of the previous year 2016-17 does not exceed Rs.250 cores.

  - For all other cases companies – Tax @ 30%

- Standard Deduction from Salary of Rs.40,000/-. However, the Transport Allowance of Rs.1600/- per month and Medical Reimbursement Expenses of Rs.15,000/- per annum has been withdrawn.

- Medical Premium Limit under section 80-D for Senior Citizen has been raised from Rs.30,000/- to Rs.50,000/-.

- Deduction Limit under section 80DDB for claiming expenditure for medical treatment of specified diseases raised to Rs.100,000/- for both senior citizen and very senior citizens.

- New Section 80TTB : New Deduction for Senior Citizen – A Deduction upto Rs.50,000/- in respect of Interest Income from Deposits held by Senior Citizens.

- TDS from Interest on Deposits – A Change has been made for TDS from Deposit Interest under section 194A – Only for Senior Citizen – Limit raised from Rs.10,000/- to Rs.50,000/-.

- **Income Computation and Disclosure Standards - ICDS :**

  - ICDS provisions provided earlier in the notification are now proposed to be made part of the Statue by the amendments in the act by inserting certain new sections.

    1. section 36(1)(xviii) - to provide the allowability of marked to market loss or other expected loss as per ICDS

    2. section 40A(13) - to provide the disallowance of marked to market loss or other expected loss covered in except 36(1)(xviii)

    3. section 43AA - to provide any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, as per the ICDS.

    4. section 43CB - to provide that profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method except for certain service contracts.

    5. Section 145B, to propose –
       • interest received by an assessee on compensation or on enhanced compensation, shall be taxable on receipt basis

       • the claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.

       • The subsidy or grant or cash assistant deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.

- **Taxation of Long Term Capital Gain on Sale of Equity Shares :**

  - **10 % tax rate has been proposed on Long Term Capital Gain arising out of transfer of Equity Shares, Equity oriented Mutual Funds or Unit of Business Trust where such Capital Gain exceeding Rs.1,00,000/-.**

  - **Concessional Rate of 10% is subject to following Conditions :**
    1. In case of equity shares, STT has been paid on both acquisition and transfer of such capital asset
    2. in case of unit of equity oriented Mutual Fund, STT has been paid on transfer of such capital asset
    3. "fair market value" and "equity oriented fund" defined
    4. long term capital gains will be computed without giving effect of indexation
    5. Cost of acquisitions in respect of the long term capital asset acquired by the assessee before the 01/02/2018 shall be the higher of – actual cost of acquisition or fair market value (i.e. Highest quoted market price on the 31/01/2018)
    6. No benefit of deduction under chapter-VIA against such capital gain
    7. Rebate u/s 87A will remain be allowed

- Example;

Sr. No.	Particulars	Scenario - 1	Scenario - 2	Scenario - 3	Scenario - 4
		Shares sold after 31/03/2018			Shares sold upto 31/03/2018
1	Date of Purchase of Equity Shares	01-07-2017	01-01-2017	01-01-2017	01-01-2017
2	Date of Sales of Equity Shares	01-08-2018	30-03-2025	30-03-2019	30-03-2018
3	Nature of Capital Gain **at the time of sales**	LTCG	LTCG	LTCG	LTCG
4	**Cost of Acquisition;**				
	a. Actual Cost of Acquisition	100.00	100.00	100.00	100.00
	b. FMV as on 31-01-2018	120.00	15.00	250.00	
	c. Amount of Sale Consideration	150.00	250.00	110.00	
	d. Lower of (b) & (c)	120.00	15.00	110.00	
	Cost of Acquisition - Higher of (a) & (d)	**120.00**	**100.00**	**110.00**	**100.00**
5	Amount of Sales	150.00	250.00	110.00	150.00
6	**Capital Gain Taxable u/s 112A**	**30.00**	**150.00**	-	**-**
7	Exemption u/s 10(38)	-	-	-	50.00

- **<u>Capital Gain Deduction under Section 54EC :</u>**

  - The period of holding (lock in) enhanced from present level of 3 years to proposed 5 years.

  - The scope of this section now proposed to restricted only to “long-term specified asset” being land or building appurtenant thereto, no other capital assets will be eligible under this section.

- **<u>Section 50C – Sale Consideration for Capital Gain :</u>**

  - It is proposed that no addition to Sale Value will be made on sale of Capital Asset under section 50C if the difference between Sale Value declared and Value as Determined under Stamp Duty Valuation is not more than 5%.

- **<u>Conversion of Stock in Trade into Capital Asset :</u>**

  - Now, conversion of Stock in Trade into Capital Assets has been brought to Tax Net. The reverse transactions were already taxable under section 45(2) – Conversion of Capital Assets into Stock in Trade.

  - It has been proposed that any inventory (Stock in Trade) converted into Capital Asset will be charged to tax as Business Income under section 28.

  - Fair market value of the inventory on the date of conversion shall be deemed to be the full value of the consideration received.

- Dividend Distribution Tax will now also include Deemed Dividend as provided under section 2(22)(e) and the same shall be chargeable @ 30% in hands of companies and no Grossing-up will be allowed. Other Dividends provided under section 2(22)(a) to (d) shall be taxed @ 15% in hands of Companies and Grossing-up is allowed.

- <u>Mutual Fund</u> – <u>Dividend Pay Out</u> - It is proposed to amend the section 115R to provide that where any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional income tax at the rate of 10% on income so distributed.

- **<u>Taxability of compensation in connection to business or employment</u>**

  Proposed to amend section 28 & Section 56 of the Act to provide that any compensation received or receivable, **whether revenue or capital**, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be **taxable as business income** & **relating to employment shall be income from other source.**

- **Charitable Institutions : Tax Deduction Compulsory : Cash Payment Limit :**

  It is proposed to insert new explanation to the section 11 for the purposes of determining the application of income under the provisions of sub-section (1) of the said section, the provisions of 40(ia), 40(a), 40(3) & 40(3A) shall, mutatis mutandis, apply.

  Meaning thereby, (1) any Payment made without deduction of TDS by Charitable Institutions will be disallowed and not be considered as application of income to the extent of 30% of such payments, and (2) Any Payment in Cash of more than Rs.10,000/- will also not be considered as application of Income.

  In the situation, such charitable institutions will be required to pay tax on such disallowances.

- **Adjustment of Income on Account of 26AS statement : Prima Facie Adjustment :**

  It is proposed to insert a new proviso to provide that no adjustment shall be made in respect of any return furnished on or after 01/04/2018 in respect of income appearing in 26AS or 16A (TDS Certificates) or 16 (Salary TDS Form) which have not been included in computation of total income. Auto adjustment of such income will now not be down while processing the return of income.

- **Deductions in respect of certain incomes not to be allowed unless return is filed by the due date**

  Existing provisions contained in the section 80AC of the Act provide that no deduction would be admissible under section 80IA, 80IAB, 80IB, 80C, 80ID and 80IE unless the return of income by the assessee is furnished on or before the due date specified under sub-section 139(1).

  It is proposed to extend the scope of section 80AC to provide that the benefit of deduction under the entire class of deductions under the heading C in chapter VIA.

  Other deduction in Chapter VI-A continue to be allowed. Deductions like 80C, 80D, 80DDB, 80E, 80G etc will continue to be available evenif return is not filed within due date.

  Meaning thereby, any Income Based Deductions will not be available if return of income is not filed within due date.

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- **PE and Business Connection Related Changes : Section 9**

  Clause (i) of sub-section (1) of section 9 is being proposed to be amended to provide that “business connection” shall also include any business activities carried through a person who, acting on behalf of the non-resident, habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by the non-resident.

  “Business connection” to include “Significant Economic presence”.

  Significant economic presence' in India shall also constitute 'business connection'. Further, “significant economic presence” for this purpose, shall mean-

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

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

- **National Pension Scheme – (NPS) Withdrawals to other than Employees :**

  Under the existing provisions of the act, withdrawals from NPS Scheme is taxable for all Non-Employees assesses.

  Now, it is proposed to bring the benefit of exemption to withdrawal from NPS to all the assesse and not just Employees. Meaning thereby, withdrawals from NPS will be tax exempt upto 40% of amount in case of all the assesse.

- **Start-ups - u/s 80-IAC :**

  Section 80-IAC of the Act, provides that deduction under this section shall be available to an eligible start-up for 3 consecutive AY out of 7 years at the option of the assesse.

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

Particular	Existing Provision	Proposed Provision
Eligibility w.r.t. incorporation	on or after 01/04/2016 but before 01/04/2019	on or after 01/04/2016 but before 01/04/2021
Turnover Requirement	Does not exceed ₹ 25 Crores in any PY beginning on or after 01/04/2016 and ending on 31/03/2021	Does not exceed ₹ 25 Crores in any seven PYs commencing from the date of incorporation
Eligibility business definition enhanced	Engaged in Innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property	Engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation

- **<u>IBC – Insolvency and Bankruptcy Start-ups - u/s 80-IAC :</u>**

  It is proposed to relax the rigors of section 79 in case of such companies, whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner. Meaning thereby, relaxation has been provided in maintaining share holding pattern ratio of 51% compulsory share holders of company.

  Meaning thereby, to carry forward loss, limitation to hold more than 51% of shares shall not apply where a company seeking insolvency resolution under the Insolvency and Bankruptcy Code, 2016.

  Under MAT Provisions, for IBC Companies, it is proposed that Brought Forward Losses and Brought Forward Depreciation, BOTH will be allowed as deduction. Hence, while calculating MAT, both the amount will be deducted while calculating Book Profit.

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