

FINANCE BILL 2017-DIRECT TAX PROPOSALS AT GLANCE

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A. Rates of Taxes:

1. It is proposed to make the following changes in tax rates:

In case of Resident Individual other than senior citizen	Taxable Income- Rs.2,50,001 to 5,00,000 Tax- 5% in place of 10%.
In case of Resident Senior citizen	Taxable Income- Rs.3,00,001 to 5,00,000 Tax- 5% in place of 10%
In case of an individual having a Total Income exceeding Rs.50 Lakh but not exceeding Rs.1 Crore	Surcharge- @10% to be levied
In case of Domestic Companies having a Total Turnover/ Gross Receipts, not exceeding Rs.50 crore, in Previous Year 2015-16	Tax- @25% shall be charged

B. Additional Resource Mobilisation:

1. Under existing provisions of Section 115BBDA, income by way of dividend in excess of Rs.10 Lakh is chargeable to tax at the rate of 10% on gross basis in case of Resident Individual, HUF or Firm. Now it has been proposed that said provisions shall be applicable to all resident assesses except domestic company, Trust/Institution u/s 12AA and certain funds u/s 10(23C).
2. Individual or HUF (other than those covered under Section 44AB), responsible for paying rent to a resident exceeding Rs.50,000 pm shall be liable to deduct TDS @ 5% w.e.f. 01/06/2017.

C. Measures for promoting affordable Housing and Real Estate Sector:

1. Period of Holding has been reduced from 36 months to 24 months for calculation of LTCG in case of Immoveable Property being land or building or both.
2. To settle disputes relating to taxability of Capital Gains in case of Joint Development Agreements, Section 45(5A) has been inserted. As per this subsection Capital Gain arising to Individual or HUF under a specified agreement will be tax to income tax in previous year in

which the certificate of completion for the whole or part of project is issued by the competent authority.

3. TDS @ 10% is required to be deducted by developer on the amount of money credited or paid by developer to resident in cash or cheque or ECS in lieu of Joint Development Agreement.
4. Scope of exemptions u/s 80IBA has been expanded and now builder can complete project within a period of five years as compared to three years earlier from the date of approval of competent authority. Further word 'built up area' has been replaced with 'Carpet area' to increase the proposed size of the house.
5. Base year for computation of capital gains has been shifted from 1981 to 2001. Now cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April 2001.
6. Section 50EC is proposed to be amended to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.
7. Section 23 is proposed to be amended to provide that where the house property is held as stock in trade and is not let out during the previous year, the annual value of such property shall be taken as NIL for the period upto one year from the end of financial year in which the completion certificate is obtained.

D. Measures for stimulating growth:

1. Extension of concessional tax rate to ECB u/s 194LC extended upto 01/07/2020.
2. Scope of Section 194LC also extended to Rupee Denomination Bonds issued to NRI by Indian Companies in INR w.e.f A/Y 2016-2017.
3. In order to facilitate ease of doing business and to promote start up India, it is proposed to amend Section 79 to provide that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested and being an eligible start-up as referred to in section 80 -IAC of this Act, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.
4. Section 80IAC is proposed to be amended to provide that deduction of amount equal to 100% of profits and gains derived from eligible business of start-ups for three consecutive assessment years out of seven years beginning from the year in which such eligible start up is incorporated.
5. Section 115JAA(2A) has been proposed to be amended to provide that amount of MAT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the

difference between the amount of Foreign tax credit allowed against MAT and foreign tax credit allowable against the tax as per regular provisions of the Act.

6. AMT can be carried forward upto 15 assessment years now.
7. Section 43D proposed to be amended to provide that the Interest Income in relation to certain categories of bad and doubtful debts received by cooperative banks shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.
8. Section 43B proposed to be amended to provide that interest on any loan or advance from cooperative bank shall be allowed as deduction on payment basis only.
9. Section 36(1)(viiia)(a) proposed to be amended to enhance the deduction limit for provision of bad and doubtful debts to 8.5% of amount of total income to scheduled bank or a non-scheduled bank or a cooperative bank.

E. Promoting Digital Economy:

1. Section 80G(5) proposed to be amended to provide that donation of any sum exceeding Rs.2000 made in cash shall not be allowed as deduction. Earlier it was Rs.10,000.
2. Expenditure incurred for acquisition of any asset in respect of which payment made in a day, otherwise than by an account payee cheque or draft or ECS, exceeds Rs.10000, such expenditure shall be ignored for determination of actual cost of such asset .
3. Section 40A is proposed to be amended to provide that any expenditure in respect of which payment or aggregate of payments made to a person in a day exceeds Rs.10,000 shall not be allowed as deduction. Further provided that expenditure exceeding Rs. 10,000 incurred in a particular year but the payment is made in any subsequent year otherwise than by an account payee cheque drawn on a bank or account payee bank draft shall be deemed to be income under profit & gains from business or profession.
4. It is proposed to amend section 44AD of the Act to reduce the existing rate of deemed total income of 8 per cent to 6 per cent in respect of the amount of such total turnover or gross receipts received through banking channels during the previous year or before the due date specified in sub-section (1) of section 139 in respect of .that previous year. Thus, there will be dual rates of 8% in respect of turnover received in cash and rate of 6% in respect of turnover received through banking channels.
5. Section 269ST is proposed to be inserted to provide that no person shall receive an amount of three lakh rupees or more, :-
 - (a) in aggregate from a person in a day;
 - (b) in respect of a single transaction; or
 - (c) in respect of transactions relating to one event or occasion from a person,

otherwise than through banking channels.

6. Transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the section 269 ST.

7. Penalty u/s 271DA proposed to the extent of 100% of sum received in contravention of Section 269ST. However penalty shall not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.

F. Transparency in Electoral funding :

1. It is proposed that political parties would have to fulfill two conditions for claiming exemption u/s 139(1) viz, no donation in cash for amount more than 2000 and filing of return before due date u/s 139(1).

G. Ease of Doing Business:

1. Section 197A is proposed to be amended to provide that Individuals and HUFs in respect of insurance commission received/receivable u/s 194D can now file self-declaration in Form.No.15G/15H for non-deduction of TDS if his total estimated income would be nil.
2. Section 44AA(2) proposed to be amended to increase the threshold limit for income from Business or Profession from Rs.1.2 Lacs to Rs.2.5 Lacs under clause (i). Further as per clause (ii) threshold limit proposed to be increased from Rs.10 Lacs. To Rs.25 Lacs for Total Sales or Turnover or Gross Receipts.
3. Section 194J relating to TDS on Fees for Professional or technical services proposed to be amended to provide the rate of 2% in the case of a payee, engaged only in the business of operation of call Centre.
4. Scope of Section 92BA relating to Specified Domestic Transactions is proposed to be curtailed by providing that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act.
5. Section 47 proposed to be amended to provide that conversion of preference share of a company into its equity share shall not be regarded as transfer.
6. In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, it is proposed that provisions of section 143(1D) shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards.
7. Section 211 is proposed to be amended to provide that an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD & sub-section (1) of

section 44ADA shall also be liable to pay Advance Tax in one installment on or before 15th of March.

8. With a view to promote ease of doing business, it has been decided by the Government to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax.
9. It is proposed to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the ITAT.
10. It is proposed to amend sub-section (1) of the Section 153, to provide that for the AY 2018-19, the time limit for making an assessment order under sections 143 or 144 shall be reduced from existing twenty-one months to eighteen months from the end of the assessment year, and for the AY 2019-20 and onwards, the said time limit shall be twelve months from the end of the assessment year in which the income was first assessable. It is further proposed to amend sub-section (2) to provide that the time limit for making an order of assessment, reassessment or re-computation under section 147, in respect of notices served under section 148 on or after the 1st April, 2019 shall be twelve months from the end of the financial year in which notice under section 148 is served.
11. It is proposed to amend the provisions of sub-section (5) of section 139 to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.
12. Time limits u/s 153B for completion of search assessment also rationalized.

H. Anti-Abuse Measures:

1. It is proposed to amend section 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2) Act, 2004. However, to protect the Exemption for genuine cases where the STT could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to STT on acquisition shall not be applicable.
2. Section 50CA is proposed to be inserted which provide that where consideration for transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner, FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".
3. Clause (x) inserted in Section 56(2) to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

4. Section 153A relating to search assessments is proposed to be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided up to the tenth assessment year if:
- (i) the AO has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year);
 - (ii) such income escaping assessment is represented in the form of asset;
 - (iii) the income escaping assessment or part thereof relates to such year or years.

5. Section 58(1A)(ia) is proposed to be inserted to provide that provisions of section 40(a)(ia) shall apply in computing income chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "Profit and gains of business or Profession".

6. It is proposed to insert a new section 94B, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.

The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non-resident or to a permanent establishment of a non-resident and who is an 'associated enterprise' of the borrower. Further, the debt shall be deemed to be treated as issued by an associated enterprise where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.

7. It is proposed to insert a new Explanation to section 11 of the Act to provide that any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1) of section 11, being contributions with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income.

It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income.

8. It is proposed to insert a new section 234F in the Act to provide that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed

within the due dates specified for filing of return under sub-section (1) of section 139. The proposed fee structure is as follows:—

- (i) a fee of five thousand rupees shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
- (ii) a fee of ten thousand rupees shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee amount shall not exceed one thousand rupees.

9. Section 271J is proposed to be inserted to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner

(Appeals) may direct him to pay a sum of 10,000/- for each such report or certificate by way of penalty.

I. Rationalization Measures:

1. It is clarified that the share of company in which public are not substantially interested sold by non-resident shall also be chargeable to tax at the rate of ten per cent for long term capital gain. Earlier, there was an uncertainty as to whether the provision of section 112(1)(c)(iii) is applicable to the transfer of share of a private company.
2. It is proposed to amend section 87A so as to reduce the maximum amount of rebate available under this section from existing Rs. 5000 to Rs.2500. It is also proposed to provide that this rebate shall be available to only resident individuals whose total income does not exceed Rs. 3,50,000.
3. It is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under Section 10AA in no case shall exceed the said total income.
4. Definition of “**Person responsible for paying**” for Section 204 and 195(6) clarified:
“in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;”
5. Explanation 4 proposed to be added to Section 90 & 90A to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.
6. It is proposed to amend section 12A so as to provide that where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modifications of the objects in the prescribed form and manner.
7. It is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.
8. Section 206CC proposed to be inserted to provide that in case of non-furnishing of PAN for TCS (in case of Resident only) :-

(i) Higher rate of TCS (twice of the prescribed rates or 5% whichever is more)

(ii) No Credit of TCS as no certificate will be generated.

Section 206CC is not applicable to Non resident having no Permanent Establishment in India.

9. It is proposed to insert sub-section (3A) in the section 71 to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to two lakh rupees for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.
10. It is therefore proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.
11. Section 132 is proposed to be amended to bring enabling provisions for provisional attachment of any property or valuation thereof by authorized officer during search or within 60 days from the date of last authorization executed by income tax authority with prior approval of Principal Director General or Director General or Principal Director or Director.
12. Section 133 is proposed to be amended to give Powers to Joint Director, the Deputy Director and the Assistant Director to call for the information even when no proceedings are pending before them to any place.
13. Section 133A proposed to be amended to give Powers to survey where any activity for charitable purpose is carried on and further powers also to record statement of trustee, employees, the attending or helping carrying out of charitable activity.

J. Benefit for NPS Subscribers:

1. It is proposed to amend the section 10 so as to provide exemption to partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013 and regulations made there under.
2. It is proposed to amend section 80CCD so as to increase the upper limit of ten per cent of gross total income to twenty per cent in case of individual other than employee.