



TAXPERT
PROFESSIONALS
Adding value with quality and commitment



ANALYSIS OF UNION BUDGET 2018-19

BY TAXPERT PROFESSIONALS



PREFACE

The Budget 2018 is a more of a balancing Act of the Modi Government. At one end it levies new cess called Health and Education Cess (*increased to 4% from present 3%*), takes away the lustre from stock market by discontinuing Long term Capital Gain Exemption, at the other end, it reduces the tax rate to 25% for the companies having turnover of 250 crore or less (P.Y. 2016-17), brings Standard Deduction of INR 40,000 (*by replacing transport allowance and medical reimbursement*) and brings tax benefits for senior citizens.

Tax benefits or lack of it, in all cases the Budget 2018 brings forth few of the good initiatives in Agriculture, Health, infrastructure and Education sector with emphasis on Women empowerment and Digital India.

Education: It is proposed to increase the digital intensity in education and move gradually from “black board” to “digital board”. Technology will be used to upgrade the skills of teachers through the recently launched digital portal “DIKSHA”. To step up investments in research and related infrastructure in premier educational institutions, including health institutions, it is proposed to launch a major initiative named “Revitalising Infrastructure and Systems in Education (RISE) by 2022” with a total investment of `1,00,000 crore in next four years.

Health: “*Swasth Bharat is Samriddha Bharat*” Major initiatives have been proposed as part of “Ayushman Bharat” programme aimed at making path breaking interventions to address health holistically, in primary, secondary and tertiary care system covering both prevention and health promotion.

Infrastructure: It is proposed to dedicated Affordable Housing Fund (AHF) in National Housing Bank, funded from priority sector lending shortfall and fully serviced bonds authorized by the Government of India

Digital and Fintech: While saying strict no to cryptocurrency government is pragmatic in its approach in promoting the Digital and Fintech. The allocation on Digital India programme has been doubled to 3073 crore in 2018-19. Also, it is proposed to launch a Mission on Cyber Physical Systems to support establishment of centres of excellence. To enhance use of digital the system of toll payments physically by cash at road toll plazas is being fast replaced with Fastags and other electronic payment systems to make road travel seamless. With its continued promotion to digital India Mr. Jaitley in his speech mentioned that a group in the Ministry of Finance is examining the policy and institutional development measures needed for creating right environment for Fintech companies to grow in India.

Financing through Bonds: It is considered to mandate, beginning with large Corporates, to make it compulsory to meet about one-fourth of their financing needs from the bond market. Also, reform measures with respect to stamp duty regime and to establish a unified authority for regulating all financial services in IFSCs in India is proposed.

MSME: Medium, Small and Micro Enterprises (MSMEs) are a major engine of growth and employment in the country. 3794 crore has been proposed to MSME Sector for giving credit support, capital and interest subsidy and innovations.

Banking: Bank recapitalization program has been launched with bonds of 80,000 crore being issued this year. This recapitalization will pave the way for the public-sector banks to lend additional credit of `5 lakh crore. The ambitious disinvestment target of Government amounting to 80,000 Crore for 2018-19 may also pave the way to disinvestment in PSB as well.

Insurance: The merger of Oriental Insurance, National Insurance & United India Insurance into single Insurance Company.

Women: The commitment of Government to women empowerment is unflinching. The budget can be called Pro women Budget. With major emphasis on resource allocation, policy initiatives and benefits in Employees provident fund the budget 2018 proves to be encouraging for women. Though much expected tax rate relaxation is not given to women in the Budget yet, Modi Government has kept up to its objective of bringing women to forefront of economy. To incentivize employment of more women in the formal sector and to enable higher take-home wages, under Employees Provident Fund and Miscellaneous Provisions Act, 1952 the women employees' contribution have been reduced to 8% for first three years of their employment against existing rate of 12% or 10% with no change in employers' contribution and also to promote for women entrepreneurs in main stream the allocation of Loans to Self Help Groups(SHG) of women has been increased to about Rupees 42,500 crore in 2016-17(37% over previous year).

Overall, the Budget 2018 is realistic budget with the bigbang Health care announcements (which is a move towards universal health coverage), more measures to control cash economy, Tax incentive for International Financial Services Centre (IFSC), Incentivisation of Micro, small and medium entrepreneurs. However, measures like taking away of LTCG and levying of tax on long term capital gains (*exceeding `1 lakh at 10% without allowing the benefit of any indexation*) and tax on distributed income by equity oriented mutual fund at the rate of 10% hurts the sentiments negatively.

Paved with good intentions "Road and infrastructure cess on petrol and diesel manufactured in and cleared from specified refineries located in the Northeast"

ECONOMIC INDICATORS

The year 2017-18 has been a very dynamic year for the Indian economy.

The survey for 2017-18 was tabled by Finance Minister Arun Jaitley in Parliament. As per our honorable Finance Minister - Controlling inflation has been a priority area for the Central Government. Adding to it he said that inflation in the country continued to moderate during 2017-18.

The decline in inflation was broad-based across major commodity groups except housing, fuel and light. The economy has witnessed a gradual transition from a period of high and variable inflation to more stable prices in the last four years.

As pointed out by our honorable Finance Minister, Indian economy is now 2.5 trillion-dollar economy – seventh largest in the world. On Purchasing Power Parity (PPP) basis, India is already the third largest economy. Our Finance Minister articulated the vision of “Minimum Government and Maximum Governance”.

The economic indicators are summarized below:

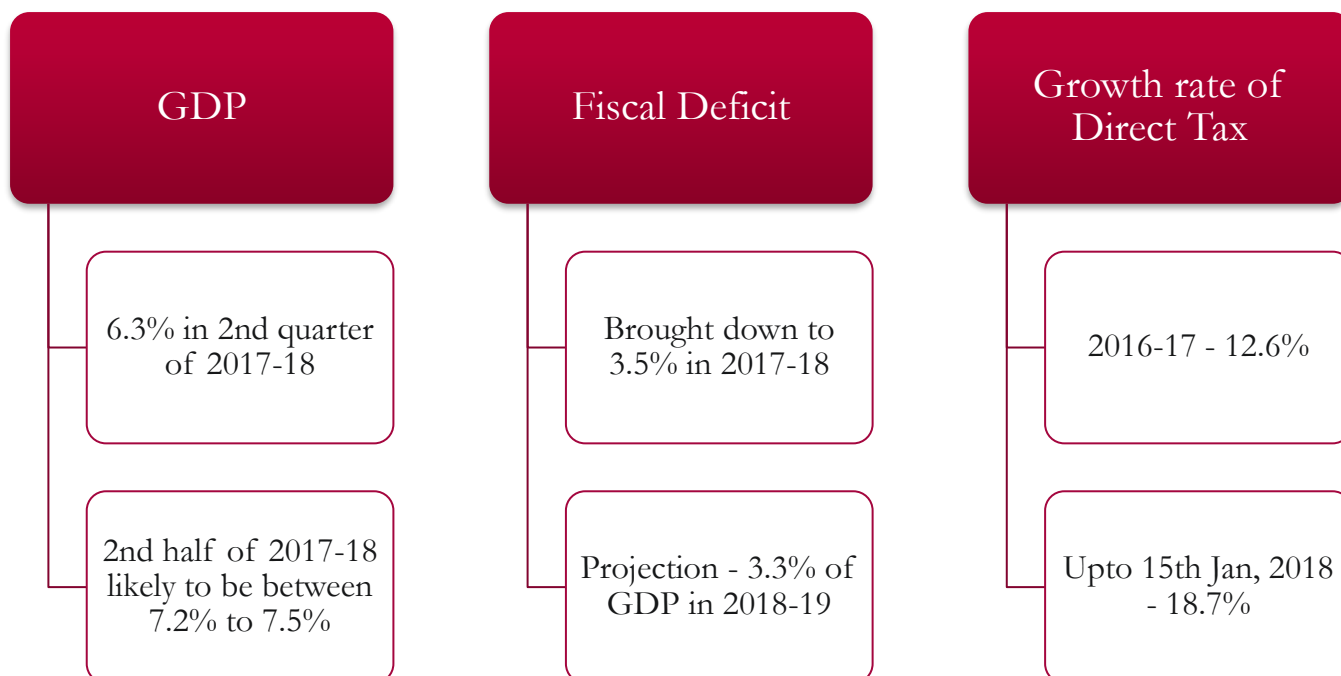
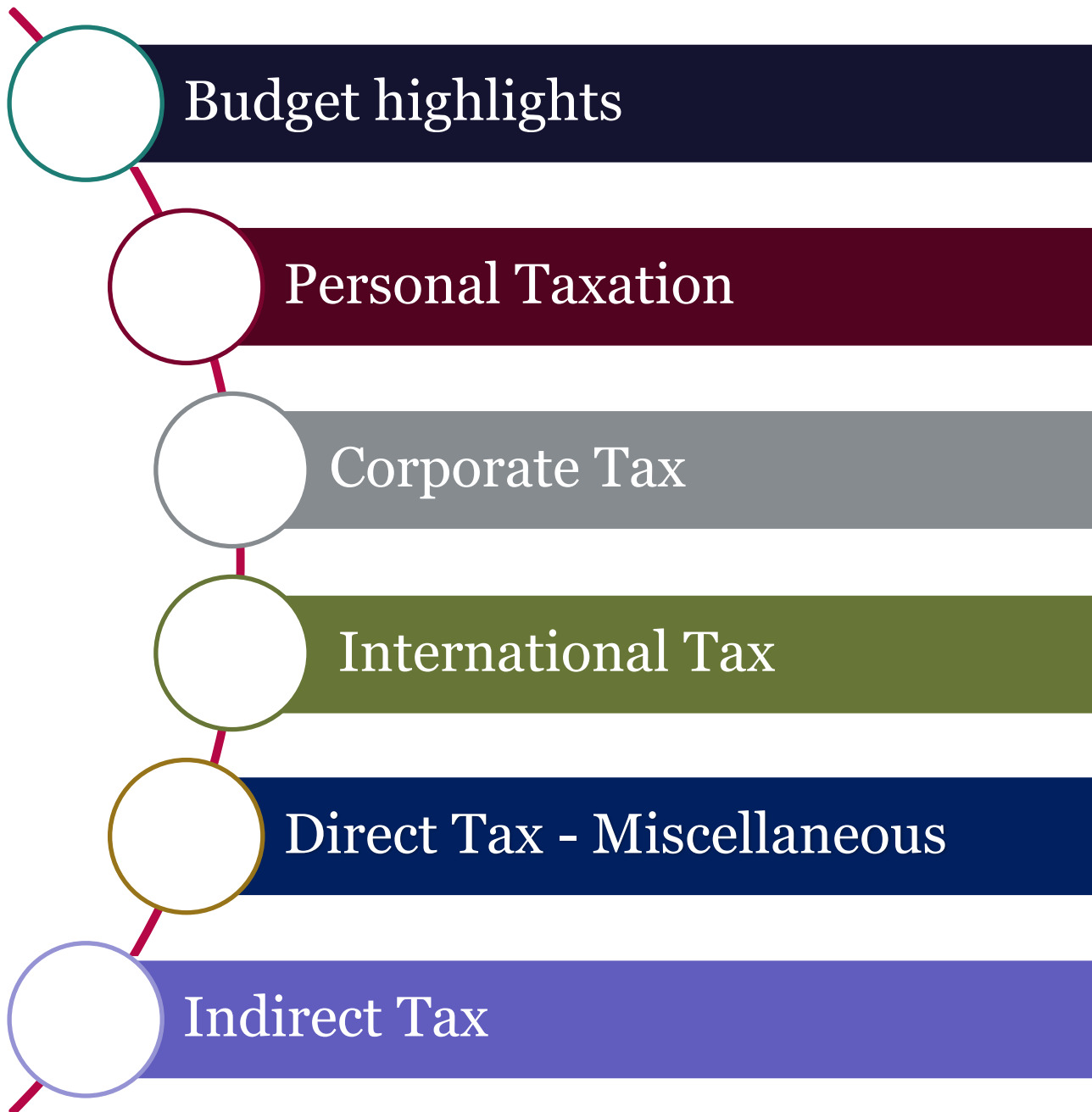


TABLE OF CONTENTS



Budget highlights
Personal Taxation
Corporate Tax
International Tax
Direct Tax - Miscellaneous
Indirect Tax

BUDGET HIGHLIGHTS

1. Deduction of 100% to the Companies registered as Farm Producer Companies with an annual turnover upto Rs. 100 crore on profit derived from such activities, for five years from 2018-19.
2. Number of days relaxed to 150 days in case of deduction of 30 % on emoluments paid to new employees for footwear and leather industry, to create more employment.
3. Reduced rate of 25 % currently available for the companies with turnover of less than 50 crore (in Financial Year 2015-16) is extended to companies reporting turnover up to Rs. 250 crore in Financial Year 2016-17.
4. Standard Deduction of Rs. 40,000 in lieu of present exemption for transport allowance and reimbursement of miscellaneous medical expenses.
5. Relief to Senior Citizens proposed:-
 - a) Exemption of interest income on deposits with banks and post offices to be increased from Rs. 10,000 to Rs. 50,000.
 - b) Hike in deduction limit for health insurance premium and/ or medical expenditure from Rs. 30,000 to Rs. 50,000 under section 80D.
 - c) Increase in deduction limit for medical expenditure for certain critical illness from Rs. 60,000 (in case of senior citizens) and from Rs. 80,000 (in case of very senior citizens) to Rs. 1 lakh for all senior citizens, under section 80DDB.
6. Introduction of new cess namely Health and Education Cess @ 4% by replacing Education Cess & Secondary and Higher Education Cess.
7. Tax on Long Term Capital Gains exceeding Rs. 1 lakh at the rate of 10 %, without allowing any indexation benefit. However, all gains up to 31st January, 2018 have been grandfathered.
8. Introduction of tax on distributed income by equity oriented mutual funds at the rate of 10%.
9. No Deductions under Chapter VIA if Return of Income not filed within due dates.
10. More concessions for International Financial Services Centre (IFSC), to promote trade in stock exchanges located in IFSC.
11. Roll out E-assessment across the country.
12. Taxation of digital transaction. Business connection to include significant economy presence.
13. Proposed changes in customs duty to promote creation of more jobs in the country and also to incentivise domestic value addition and Make in India in sectors such as food processing, electronics, auto components, footwear and furniture.

BUDGET PROPOSALS

“The centre aims at improving the quality of life in districts by investing in social services like health, education, nutrition, skill upgradation, financial inclusion and infra”



PERSONAL TAXATION UNION BUDGET 2018-19

BY TAXPERT PROFESSIONALS



BY TAXPERT PROFESSIONALS



RATES OF TAX - ASSESSMENT YEAR 2019-20

1. Individual, HUF, AOP, BOI, Artificial Juridical Person

a) Age is eighty years or more:

Total Income (INR)	Rates
<5,00,000	Nil
5,00,001 to 10,00,000	20%
>10,00,000	30%

b) Age is sixty years or more but less than eighty years:

Total Income (INR)	Rates
<3,00,000	Nil
3,00,000 to 5,00,000	5%
5,00,001 to 10,00,000	20%
>10,00,000	30%

c) Others:

Total Income (INR)	Rates
<2,50,000	Nil
2,50,000 to 5,00,000	5%
5,00,001 to 10,00,000	20%
>10,00,000	30%

2) Tax Rates for Corporate Assessee

Domestic Company

Status of Taxpayer	Rates of Taxation
Domestic Company	25% */30%
Foreign Company	40%

**Total turnover or Gross Receipt in the P.Y. 2016-17 doesn't exceed 250 crore*

- The above rates shall be increased by cess and surcharge wherever applicable.
- A new cess, by the name of "Health and Education Cess" shall be levied at the rate of 4%.

DIRECT TAX - PERSONAL TAXATION

1. Entities to apply for PAN

Section	Extant Provision	Proposed Change	Reason of change
139A	Every person specified therein and who has not been allotted a permanent account number shall apply to the Assessing Officer for allotment of a Permanent Account Number (PAN).	Every person, not being an individual, which enters into a financial transaction of an amount aggregating to two lakh and fifty thousand rupees or more in a financial year shall be required to apply to the Assessing Officer for allotment of PAN.	To use PAN as Unique Entity Number (UEN).
		The Managing Director, Director, Partner, Trustee, Author, Founder, Karta, Chief Executive Officer, Principal Officer or Office bearer or any person competent to act on behalf of non-individual entities shall also apply to the Assessing Officer for allotment of PAN.	In order to link the financial transactions with the natural persons.

The amendment will take effect from 1st April, 2018.

2. Rationalization of the provisions of section 54EC

Section	Extant Provision	Proposed Change	Reason of change
54EC	Capital gain arising from the transfer of a long-term capital asset, invested in the long-term specified asset at any time within a period of six months after the date of such transfer, shall not be charged to tax subject to certain conditions specified in the said section. The section also provides that “long-term specified asset” for making any investment under the	It is proposed to amend the section 54EC so as to provide that capital gain arising from the transfer of a long-term capital asset, being land or building or both, invested in the long-term specified asset at any time within a period of six months after the date of such transfer, the capital gain shall not be charged to tax subject to certain	i. Rationalisation of the provisions ii. To restrict the scope of the section only to capital gains arising from long-term capital assets iii. To make funds available to

	section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India or by the Rural Electrification Corporation Limited; or any other bond notified by the Central Government in this behalf.	conditions specified in this section. Period of redemption increased from 3 years to 5 years.	eligible bond issuing Company for 5 years.
--	---	--	--

With effect from 1st April, 2019.

3. Deductions available for senior citizens:

Section	Extant Provision	Proposed Change	Reason of change
80D	The existing provision provides that a deduction upto Rs 30,000/- in respect of payments towards annual premium on health insurance policy, or preventive health check-up, of a senior citizen, or medical expenditure in respect of very senior citizen.	Monetary limit of deduction increased from Rs 30,000/- to Rs 50,000/- In case of single premium health insurance policies having cover of more than one year, it is proposed that the deduction shall be allowed on proportionate basis for the number of years for which health insurance cover is provided, subject to the specified monetary limit.	To provide relief to the senior citizens.

80DDB	Section 80DDB of the Act, inter-alia, provide that a deduction is available to an individual and Hindu undivided family with regard to amount paid for medical treatment of specified diseases in respect of very senior citizen upto Rs 80,000/- and in case of senior citizens upto Rs 60,000/- subject to specified conditions.	The monetary limit of deduction increased to Rs 1,00,000/- for both senior citizens and very senior citizens.	
80TTA	At present, a deduction upto Rs 10,000/- is allowed under section 80TTA to an assessee in respect of interest income from savings account.	Insertion of a new section 80TTB so as to allow a deduction upto Rs 50,000/- in respect of interest income from deposits held by senior citizens. However, no deduction under section 80TTA shall be allowed in these cases.	

Effective from 1st April, 2019.

4. Deduction in respect of interest income to senior citizen

Section	Extant Provision	Proposed Change	Reason of change
194A	At present, the threshold limit for deduction of tax at source on interest income is INR 10,000/-	Limit increased from Rs 10,000/- to Rs 50,000/-.	To provide relief to the senior citizens.

Effective from 1st April, 2018.

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

Section	Extant Provision	Proposed Change	Reason of change
80AC	The existing provisions contained in the section 80AC of the Act provide that no deduction would be admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, unless the return of income by the assessee is furnished on or before the due date specified under sub-section (1) of section 139 of the Act	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.—Deductions in respect of certain incomes” in Chapter VIA shall not be allowed unless the return of income is filed by the due date.	Promotion of compliance of provision

Effective from 1st April, 2018

6. Standard Deduction on Salary Income

Section	Extant Provision	Proposed Change	Reason of change
16	Section 16, inter-alia, provides for certain deduction in computing income chargeable under the head “Salaries”.	Introduction of Standard deduction of Rs 40,000/- or the amount of salary received, whichever is less in lieu of Transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses.	To provide relief to the salaried persons.

Effective from 1st April, 2019.

7. New regime for taxation of long-term capital gains on sale of equity shares etc.

Section	Extant Provision	Proposed Change	Reason of change
112A	Long Term Capital Gains arising from transfer of long term capital assets, being equity shares of a company or a unit of equity-oriented fund or a unit of business trusts, is exempt from income-tax under clause (38) of section 10 of the Act.	<p>Introduction of new section 112A in the Act to provide that long-term capital gains arising from transfer of a long-term capital asset being an equity share in a company or a unit of an equity-oriented fund or a unit of a business trust shall be taxed at 10 per cent. of such capital gains exceeding one lakh rupees. (See note below)</p> <p>Withdrawal of exemption under Section 10(38).</p> <p>However, all gains up to 31st January, 2018 will be grandfathered.</p>	To minimize economic distortions and curb erosion of tax base.
<p>Note-</p> <p>This concessional rate of 10 per cent. will be applicable to such long-term capital gains, if—</p> <p>i) in a case where long-term capital asset is in the nature of an equity share in a company, securities transaction tax has been paid on both acquisition and transfer of such capital asset; and</p> <p>ii) in a case where long-term capital asset is in the nature of a unit of an equity-oriented fund or a unit of a business trust, securities transaction tax has been paid on transfer of such capital asset.</p>			

Effective from 1st April, 2019.



CORPORATE TAXATION UNION BUDGET 2018 -19

BY TAXPERT PROFESSIONALS



BY TAXPERT PROFESSIONALS



DIRECT TAX - CORPORATE TAXATION

8. Tax neutral transfers

Section	Extant Provision	Proposed Change	Reason of change
56	<p>Section 47 provides for certain tax neutral transfers.</p> <p>Section 56 also excludes income arising out of certain tax neutral transfers from its ambit.</p>	Exclusion of such transfer from the scope of Section 56, so as to facilitate the transaction of money or property between a wholly owned subsidiary company and its holding company	Rationalisation of provisions.

Effective from 1st April, 2018.

9. Widening of scope of Accumulated profits for the purposes of Dividend

Section	Extant Provision	Proposed Change	Reason of change
2(22)(e)	<p>The current provision of the Act defines the term 'Dividend'.</p> <p>The Explanation 2 provides the definition of the term 'accumulated profits' for the purposes of the said clause, as all profits of the company up to the date of distribution or payment or liquidation, subject to certain conditions.</p>	Insertion of a new Explanation 2A to widen the scope of the term 'accumulated profits' so as to provide that in the case of an amalgamated Company, accumulated profits, whether capitalised or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.	To curb abusive arrangements.

Effective from 1st April, 2018.

10. Application of Dividend Distribution Tax to Deemed Dividend

Section	Extant Provision	Proposed Change	Reason of change
115Q	<p>At present dividend distributed by a Domestic Company is subject to Dividend Distribution Tax payable by such company.</p> <p>However, deemed dividend under sub-clause (e) of clause (22) of section 2 of the Act is taxed in the hands of the recipient at the applicable marginal rate.</p>	Deletion of Explanation to Chapter XII-D occurring after section 115Q of the Act so as to bring deemed dividends also under the scope of dividend distribution tax under section 115-O.	The change is proposed with a view to bring clarity and certainty. The change will result in taxation of such deemed dividend at 30% (without grossing up)

Effective to transactions referred to in sub-clause (e) of clause (22) of section 2 of the Act undertaken on or after 1st April, 2018.

11. Rationalisation of provision relating to conversion of stock-in-trade into Capital Asset

Section	Extant Provision	Proposed Change	Reason of change
45	Section 45 of the Act, <i>inter alia</i> , provides that capital gains arising from a conversion of capital asset into stock-in-trade shall be chargeable to tax.	<p>It is proposed to amend Section 28, to provide that any profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset shall be charged to tax as business income.</p> <p>It is also proposed to provide that the fair market value of the inventory on the date of conversion or treatment determined in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of such conversion or treatment</p>	In cases where the stock in trade is converted into, or treated as, capital asset, the existing law does not provide for its taxability.

Effective from 1st April, 2019.

12. Presumptive income under section 44AE in case of goods carriage

Section	Extant Provision	Proposed Change	Reason of change
44AE	<p>The profits and gains shall be deemed to be an amount equal to INR 7,500 per month or part of a month for each goods carriage or the amount claimed to be actually earned by the assessee, whichever is higher.</p> <p>The current presumptive income scheme is applicable uniformly to all classes of goods carriages irrespective of their tonnage capacity. The only condition which needs to be fulfilled is that the assessee should not have owned more than 10 goods carriages at any time during the previous year.</p>	<p>In the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would have deemed to be an amount equal to INR 1,000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually earned by the assessee, whichever is higher.</p> <p>The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.</p>	To encourage principle of tax equity.

Effective from 1st April, 2019.

13. Rationalisation of provision of section 115BA relating to certain domestic start-up companies

Section	Extant Provision	Proposed Change	Reason of change
115 BA	Tax on certain in domestic Companies (like companies engaged in business of manufacture and production of any article or thing and research in relation thereto) Subject to certain	Clarification with regard to applicability of section to be restricted to the income from the business of manufacturing, production, research or distribution referred to therein	It is clarificatory in nature

	conditions as referred in the section, such domestic companies are liable to pay income tax at the rate of 25%		
--	--	--	--

Effective from the 1st April, 2017

14. Dividend distribution tax on dividend payouts to unit holders in an equity-oriented fund

Section	Extant Provision	Proposed Change	Reason of change
115R	Presently, any income distributed to a unit holder of equity-oriented funds is not chargeable to tax.	Income tax imposed on any income distributed by a Mutual Fund being, an equity-oriented fund at the rate of 10%.	With a view to provide a level playing field between growth-oriented funds and dividend paying funds.

Effective from 1st April, 2018.

15. Relief from liability of Minimum Alternate tax (MAT) in case of Companies under Insolvency Resolution Process

Section	Extant Provision	Proposed Change	Reason of change
115JB	<p>It provides for levy of a minimum alternate tax (MAT) on the “book profits” of a company. In computing the book profit, it provides, inter alia, for a deduction in respect of the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.</p> <p>Consequently, where the loss brought forward or unabsorbed depreciation</p>	If the company’s application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority, the aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) shall be allowed to be reduced from the book profit.	The non – deduction of brought forward loss or unabsorbed depreciation in case where, unabsorbed depreciation is NIL was a barrier to rehabilitating companies seeking insolvency resolution.

	is Nil, no deduction is allowed.		
--	----------------------------------	--	--

Effective from 1st April, 2018.

16. Benefits of carry forward and set off of losses

Section	Extant Provision	Proposed Change	Reason of change
79	This section provides that carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares carrying not less than 51 % of the voting power, on the last day of the year or years in which the loss was incurred.	Relaxation of Section 79 to the Companies that have been approved under the Insolvency and Bankruptcy Code, 2016.	Removal of barrier to rehabilitating companies seeking insolvency resolution.

17. Deduction in respect of Farm Producer Companies

Section	Extant Provision	Proposed Change	Reason of change
80P	Section 80P provides for 100 % deduction in respect of profit of cooperative society which provide assistance to its members engaged in primary agricultural activities.	Benefits extended to Farm Producer Companies (FPC), having a total turnover upto Rs 100 Crore, whose gross total income includes any income from (i) the marketing of agricultural produce grown by its members, or (ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying	To provide benefits to the Farm Producer Companies.

		them to its members, or (iii) the processing of the agricultural produce of its members. The benefit shall be available for a period of five years from the financial year 2018-19.	
--	--	---	--

Effective from 1st April, 2019.

18. Measures to promote start-ups

Section	Extant Provision	Proposed Change	Reason of change
80-IAC	Section 80-IAC of the Act, inter alia, provides that deduction under this section shall be available to an eligible start-up for three consecutive assessment years out of seven years at the option of the assessee, if (i) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019; (ii) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and (iii) it is engaged in the eligible business which involves innovation, development, deployment	It is proposed to make following changes in the taxation regime for the start ups:— (i) The benefit under section 80IAC is extended to companies incorporated before the 1st April, 2021; (ii) The requirement of the turnover not exceeding Rs 25 Crore would apply to seven previous years commencing from the date of incorporation; (iii) The definition of eligible business has been expanded to include improvement of product or processes or service scalable business model with a high potential of employment generation or wealth creation.	In order to improve the effectiveness of the scheme for promoting start ups in India

	or commercialization of new products, processes or services driven by technology or intellectual property		
--	---	--	--

Effective from 1st April, 2018.

19. Taxability of compensation in connection to business or employment

Section	Extant Provision	Proposed Change	Reason of change
28	<p>Under the existing provisions of the Act, certain types of compensation receipts are taxable as business income under Section 28.</p> <p>However, the existing provisions of clause (ii) of section 28 is restrictive in its scope as far as taxation of compensation is concerned.</p>	<p>a. Compensation (of any kind) 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.</p> <p>b. Compensation (of any kind) in connection with the termination or the modification of the terms and conditions of any contract relating to its employment shall be taxable under section 56 of the Act.</p>	<p>A large segment of compensation receipts in connection with business and employment was out of the purview of taxation leading to base erosion and revenue loss.</p> <p>The amendment is done to cover the compensation received under the purview of taxable income.</p>

Effective from 1st April, 2019.

20. Measures to promote International Financial Services Centre (IFSC)

Section	Extant Provision	Proposed Change	Reason of change
47	The Section provides for tax neutrality relating to certain transfer.	The transfer of a capital asset being bond or Global Depository Receipt; or rupee denominated bond of an Indian company; or derivative made by a non-resident in IFSC shall not be regarded as transfer if such transaction is executed in foreign currency.	To promote the development of world class financial infrastructure in India
115JC	Section 115JC of the Act provides for Alternate Minimum Tax (AMT) at the rate of 18.50 % of adjusted total income in the case of a non-corporate person.	In case of a unit located in an International Financial Service Center, the AMT shall be charged at the concessional rate of 9 %.	To promote the development of world class financial infrastructure in India

Effective from 1st April, 2019.

21. Incentive for employment generation

Section	Extant Provision	Proposed Change	Reason of change
80-JJAA	<p>At present, under section 80-JJAA of the Act, a deduction of 30% is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year.</p> <p>However, the minimum period of employment is relaxed to 150 days in the case of apparel industry.</p>	<p>It is proposed to extend this relaxation to footwear and leather industry.</p> <p>Further, it is also proposed to rationalize this deduction of 30% by allowing the benefit for a new employee who is employed for less than the minimum period during the first year but continues to remain employed for the minimum period in subsequent year.</p>	To encourage creation of new employment

Effective from 1st April, 2019.



BUSINESS CONNECTION
SIGNIFICANT ECONOMIC
PRESENCE
TRANSFER PRICING



INTERNATIONAL TAXATION UNION BUDGET 2018 -19

BY TAXPERT PROFESSIONALS

BY TAXPERT PROFESSIONALS

INTERNATIONAL TAXATION

1. Taxation of long-term capital gains in the case of Foreign Institutional Investor

Section	Extant Provision	Proposed Change	Reason of change
115AD	The LTCG in the hands of Foreign Institutional Investor (FII) is chargeable to tax at the rate of 10%. Being equity shares of a company or a unit of equity-oriented fund or a unit of business trusts, is exempt from income-tax under clause (38) of section 10 of the Act.	After withdrawal of exemption under clause (38) of section 10 of the Act, such long-term capital gain will become taxable in the hands of FIIs also.	To bring the provision in line with the amendment in Section 10(38).

Effective from 1st April, 2019.

2. Aligning the scope of “business connection” with modified PE Rule as per Multilateral Instrument (MLI)

Section	Extant Provision	Proposed Change	Reason of change
9	Under the existing provisions of Explanation 2 to clause (i) of sub-section (1) of section 9, "business connection" includes business activities carried on by non-resident through dependent agents. The scope of "business connection" under the Act is similar to the provisions relating to Dependent Agent Permanent Establishment (DAPE) in India's Double Taxation Avoidance Agreements (DTAAs).	“Business connection” to 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. It is further proposed that the contracts should be (i) in the name of the non-resident; or (ii) for the transfer of the	To align them with the provisions in the DTAA as modified by MLI so as to make the provisions in the treaty effective.

		ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use or for the provision of services by that non- resident	
--	--	--	--

Effective from 1st April, 2019.

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

Section	Extant Provision	Proposed Change	Reason of change
9(1)(i)	<p>Ordinarily, as per the allocation of taxing rules under Article 7 of DTAA's, business profit of an enterprise is taxable in the country in which the taxpayer is a resident. If an enterprise carries on its business in another country through a 'Permanent Establishment' situated therein, such other country may also tax the business profits attributable to the 'Permanent Establishment'.</p> <p>For this purpose, 'Permanent Establishment' means a 'fixed place of business' through which the business of an enterprise is wholly or partly carried out.</p>	<p>It is proposed to amend clause (i) of sub-section (1) of section 9 of the Act to provide that 'significant economic presence' in India shall also constitute 'business connection'. Further, “significant economic presence” for this purpose, shall mean</p> <p>(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</p>	<p>a. To cater to the emerging scenario of digital economy.</p> <p>b. It will enable India to negotiate for inclusion of the new nexus rule in the form of 'significant economic presence' in the Double Taxation Avoidance Agreements (DTAA).</p>

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

Effective from 1st April, 2019.



TRANSFER PRICING

Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group introduced vide the Finance Act, 2016. The CbCR and Master file requirements were introduced in addition to already existing local documentation requirements. The detailed rule in respect of CbCR were released on 31 Oct 2017.

Based on model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD) and others, following amendments are proposed: —

- ❖ the time allowed for furnishing the Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;
- ❖ the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be twelve months from the end of reporting accounting year;
- ❖ the due date for furnishing of CbCR by the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;
- ❖ constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section (2) in the latter's country or territory;
- ❖ Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and sub-section (4) as may be notified by the Central Government;
- ❖ "reporting accounting year" has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2) and sub-section (4).

These amendments are clarificatory in nature and are made so as to improve the effectiveness and reduce the compliance burden of such reporting.

Effective from 1st April, 2017

DIRECT TAX - MISCELLANEOUS

1. It is proposed to amend Section 43CA, 50C & 56 to provide that no adjustment shall be made in a case where the circle rate value does not exceed 5% of the consideration. Currently, while taxing Income from Capital Gains, business profits and other sources in respect of transactions in immovable property, the consideration or circle rate value, whichever is higher, is adopted and the difference is counted as income both in the hands of the purchaser and seller.
2. It is proposed to insert a new proviso to Section 143(1) to provide that no adjustment with respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return shall be made in respect of any return furnished on or after the assessment year commencing on the first day of April, 2018.
3. Government has now decided to discontinue the existing 8% Savings (Taxable) Bonds, 2003 with a new 7.75% GOI Savings (Taxable) Bonds, 2018. The interest received under the new bonds will continue to be taxed as in the case of the earlier once.
4. Currently, the income of trusts and institutions is exempt if they utilise their income towards their objects in accordance with the relevant provisions of the Income-tax Act. However, there is no restriction on these entities for incurring expenditure in cash. In order to have audit trail of the expenses incurred by these entities. It is proposed that payments exceeding INR 10,000/- in cash made by such entities shall be disallowed and the same shall be subject to tax.
5. The e-assessment was first introduced in 2016 on a pilot basis and in 2017, extended it to 102 cities with the objective of reducing the interface between the department and the taxpayers. It is proposed to notify a new scheme for assessment where the assessment will be done in electronic mode which will almost eliminate person to person contact leading to greater efficiency and transparency on all India basis.



INDIRECT TAXES UNION BUDGET 2018-19

BY TAXPERT PROFESSIONALS



INDIRECT TAX – PROPOSALS

The Finance Minister, Shri Arun Jaitley introduced the Finance Bill, 2018 in Lok Sabha on 1st February, 2018 which is the first budget after the roll out of Goods and Services Tax. The Central Board of Excise and Customs (CBEC) has been renamed as Central Board of Indirect Taxes and Customs (CBIC) across all concerned legislations.

Excise duties to a large extent and Service Tax have been subsumed in GST, along with corresponding duties on imports (*except Basic Customs Duty*).

Amendments in relation to GST Laws can only be introduced on the recommendation of GST Council. Hence, GST was left untouched in the Finance Bill, 2018.

The proposals announced by the Finance Minister were mainly concerned with Customs Duty and Excise Duty (applicable on petrol and diesel). Changes in Customs and Central Excise Law and rates of duty have been proposed through the Finance Bill, 2018. To prescribe the effective rates of duty, following notifications are being issued:

CUSTOMS	Notification Nos.	Date
Tariff	6/2018-Customs to No.23/2018-Customs	2nd February, 2018
Central Excise		
Tariff	1/2018-CE to No.13/2018-CE	2nd February, 2018

Unless otherwise stated, all changes in rates of duty take effect from 2nd February, 2018. The following are the major proposals introduced by the Finance Minister in the Finance Bill, 2018: -

1) Central Excise Duty

Central Excise Duty has been effectively replaced by the Goods and Service Tax from 1st July, 2017 on all products except motor spirit (commonly called as petrol) and diesel. The rate of Excise on motor spirit has been restructured by way of decrease / exemption from Basic Excise Duty and cesses and simultaneous introduction of Road and Infrastructure Cess.

The effective rate of Excise Duty on petrol and diesel remains the same and thus no significant change in prices of petrol and diesel is expected on account of the Union Budget.

Items	Duty rates prior to 1 st February, 2018 (Rs. per litre)				Duty rates applicable with effect from 1 st February, 2018 (Rs. per litre)			
Product	Basic Excise Duty	AED (Road cess)	SAED	Total Excise Duty	Basic Excise Duty	Road and Infrastructure Cess	SAED	Total Excise Duty
Petrol (unbranded)	6.48	6	7	19.48	4.48	8	7	19.48
Petrol (branded)	7.66	6	7	20.66	5.66	8	7	20.66
Diesel (unbranded)	8.33	6	1	15.33	6.33	8	1	15.33
Diesel (branded)	10.69	6	1	17.69	8.69	8	1	17.69

2) Service Tax

Service Tax has been effectively replaced by the Goods and Service Tax from 1st July, 2017. In this regard, a few exemptions from Service Tax were announced with retrospective effect.

- i) Services provided or agreed to be provided by Goods & Services Tax Network (GSTN) to Central Government or State Government or Union Territory administration are proposed to be exempted from levy of Service Tax for period commencing from 28th March, 2013 to 30th June, 2017.
- ii) Services provided by Naval Group Insurance fund by way of life insurance to personnel of coast guard under the group insurance scheme of central government are proposed to be exempted from service tax for the period commencing from 10th September, 2004 and ending with 30th June, 2017.
- iii) Service Tax shall not be leviable on the consideration paid to the Government in the form of Government's share of profit petroleum, as defined in the contract entered into by the Government in this behalf, in respect of taxable services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, during the period commencing from the 1st day of April, 2016 and ending with the 30th day of June, 2017 (both days inclusive).

3) Customs Duty

The Basic Customs Duty @ 10% has been left unchanged on most of the goods. Emphasizing on the need and support to develop domestic manufacturing, the rate of Basic Customs Duty on import of certain goods has been increased.

However, the rate of duty has been reduced on certain goods which are used as raw material / inputs by manufacturers in India.

a) Changes in Customs Duty

The Basic Customs duty to be increased on many goods such as mobile phones, perfumes, furniture, television sets, fruits and juices, toys and games etc. Giving due support to domestic industries and renewable sources of energy, the rate of duty to be reduced on raw cashews, parts for manufacture of solar panels. Sector-wise list of major products with the proposed change in rates is given below: -

Food processing

Sr. no.	Commodities	HSN Code	Present Rate	Proposed Rate
1	Fruit and vegetable juices	20092100 to 20099000	30%	50%
2	Crude edible vegetable oils such as groundnut oil, olive oil	1508, 1509, 1510, 1512, 1513, 1515	12.5%	30%
3	Refined edible vegetable oils such as groundnut oil, olive oil	1508, 1509, 1510, 1512, 1513, 1515, 151620, 15171021, 15179010, 15180011, 15180021, 15180031	20%	35%
4	Cashew nuts in shell	08013100	5%	2.5%
5	Orange fruit juice	20091100, 20091200, 20091900	30%	35%

Automobiles

Sr. no.	Commodities	HSN Code	Present Rate	Proposed Rate
1	Truck and bus radial tyres	40112010	10%	15%
2	Completely Built units of motor vehicles	8702, 8704	20%	30%

3	CKD imports of motor vehicles, motor cars, motor cycles	8702, 8703, 8704, 8711	10%	15%
---	---	------------------------	-----	-----

Electronic goods

Sr. no.	Commodities	HSN Code	Present Rate	Proposed Rate
1	Smart watches / wearable devices	85176290	10%	20%
2	Wrist watches, pocket watches	9101, 9102	10%	20%
3	Video games consoles	9504	10%	15%
4	Cellular mobile phones	851712	15%	20%
5	Printed Circuit Board Assembly (PCBA) of charger/adaptor and moulded plastics of charger/adaptor of cellular mobile phones	85049090, 39269099	Nil	10%
6	Solar tempered glass for manufacture of solar panels	70	5%	Nil
7	Raw materials, parts or accessories for the manufacture of Cochlear Implants	Any chapter	2.5%	Nil

Diamonds and precious stones

Sr. no.	Commodities	HSN Code	Present Rate	Proposed Rate
1	Cut and polished colored gemstones;	71	2.5%	5%
2	Diamonds including lab grown diamonds-semi processed, half-cut or broken; non-industrial diamonds including lab-grown diamonds (other than rough diamonds), including cut and polished diamonds	71	2.5%	5%

b) Abolition of Cess on imports

Education Cess and Secondary and Higher Education Cess on imported goods to be abolished.

c) Levy of Social Welfare surcharge

Social Welfare Surcharge shall be levied on import of goods @ 10% on the aggregate duties of Customs (*excluding IGST and GST compensation cess*) to provide the necessary funds for social welfare schemes of the government. The Social Welfare Surcharge will be applicable only on the goods specified in First Schedule to the Customs Tariff Act, 1975. There is no provision of Input Tax credit on surcharge and it is likely to result in a hike in cost of imports.

The surcharge on the following goods shall be @ 3%

- Motor spirit commonly known as petrol and high speed diesel oil
- Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured form, or in powder form

- Gold (including gold plated with platinum), unwrought or in semi-manufactured form, or in powder form

Table (figures in Rs.)

Pre-budget 2018		Post-budget 2018	
Assessable Value	1,00,000	Assessable Value	1,00,000
BCD (10%)	10,000	BCD (10%)	10,000
Education Cess (3% of BCD)	300	Social welfare Surcharge (10% of BCD)	1,000
IGST (18%)	19,854	IGST (18%)	19,980
Total Tax costs (BCD + EC)	10,300	Total Tax costs (BCD + SWS)	11,000
Total Tax Credit (IGST)	19,854	Total Tax Credit (IGST)	19,980

The levy of Social Welfare Surcharge will result in an additional cash outflow of Rs. 826 on assessable value of Rs. 1,00,000/- (about 0.83%).

Further, since surcharge is a non-creditable duty, it will lead to an increase in cost of imports by 0.7% of Assessable Value.

d) Abolition of Additional Customs Duty on imports

The erstwhile Additional Duty of Customs on import of fuels i.e. motor spirit (petrol) and high-speed diesel to be abolished.

e) Levy of Road and Infrastructure Cess

Road and Infrastructure Cess to be levied on fuels i.e. motor spirit (petrol) and high-speed diesel. Levy of the cess only to alter the structure of taxation of fuel and there is no final tax impact on the customer since the aggregate duty per litre remains unchanged.

f) Other changes in Customs Law

- Scope of Customs Act to be amended to include any offence or contravention committed thereunder outside India by any person
- Definition of term “assessment” and “re-assessment” to be expanded significantly to include factors such as classification, valuation, exemption or concession, quantity, weight & measure, origin and any other specific factor which impact the computation of Customs duty
- Scope of Export Manifest and Import Manifest widened to include Departure Manifest and Arrival Manifest.
- The limit of ‘Indian Customs Waters’ into the sea from the existing ‘Contiguous zone of India’ to be extended to the ‘Exclusive Economic Zone (EEZ)’ of India
- Verification of self-assessed imported goods shall be based on a risk based selection criteria

- Provisional assessment of duty would also cover export consignments
- Provision to exempt goods imported for repair, further processing of manufacture from payment of Customs Duty introduced, similar provisions inserted for re-import of exported goods as well
- Pre-notice consultation to be held with assessee in cases not involving collusion, willful mis-statement, suppression before issue of demand notice
- Provision for issuance of supplementary show cause notice introduced subject to specified timelines and circumstances
- **Adjudication**
 - Adjudication of notices to be completed within prescribed timelines
 - 6 months for notices issued under normal limitation period.
 - 1 year for cases involving collusion, willful mis-statement, suppression.
(Time limit extendable up to 6 months / 1 year subject to approval from the higher authorities)
 - Proceedings of a show cause notice shall be deemed to be concluded if adjudication not completed within specified prescribed timelines
- **Advance Ruling**
 - Definition of “Advance Ruling” expanded to cover subjects beyond mere determination of duty
 - Advance Ruling can now be obtained in respect of taxes apart from duties either under Customs Act or any other law for the time being in force
 - Time limit to pronounce Advance Ruling reduced from 6 months to 3 months
- Customs authorities or applicant authorized to file appeal against a ruling passed by the Advance Ruling authorities within 60 days from the date of communication of the ruling - extendible up to 30 days
- Presentation of Bill of entry/Shipping Bill/Bill of export can also be made through Customs Automated System for import and export of goods
- Provision for advance payment of duty through Electronic Cash Ledger introduced
- Audit provisions introduced under the Customs Act

Taxpert Professionals is a professional service firm offering a range of Tax Advisory and Compliance Services. The Firm believes in the creation of value through advising and assisting the businesses. The pool of professionals from different spectrum like tax, accountancy and legal work for the clients and provide the practical solution on tax, Company Law matter and international transactions issues.

THE TAXPERT PROFESSIONALS ADVANTAGE

- ✚ One stop solutions for all taxation and structuring needs
- ✚ Comprehensive approach leading to integrated and seamless Services
- ✚ Dedicated specialists with significant experience
- ✚ Wide Network for assisting in cross border services

| | CA. Vinay Bhushan | | CA. Ankit Shah | | CA. Sudha G. Bhushan | | CA Santosh Thanvi
| | CA. Vatsal Shah | | Adv. Harpreet Singh | | Ms. Mitisha Sheth | | Mr. Suresh Saini

Contact +91 09769134554 | | 09773392061

E: info@taxpertpro.com

W: www.taxpertpro.com