

THE FINANCE ACT, 2018 - AN OVERVIEW OF DIRECT TAX AMENDMENTS

1

CA PRACHI PAREKH
caprachiparekh@gmail.com

RATES OF TAX

- NO change in rates of tax for Assesseees other than Domestic Companies
- For Domestic Companies, where turnover or gross receipts of Previous Year 2016-2017 does not exceed Rs. 250 crores, tax @ 25%
- Health & Education cess to be levied at 4%.

CONVERSION OF INVENTORY TO CAPITAL ASSET:

- Specific provisions to tax the conversion of inventory to capital asset u/s 28
- FMV of inventory on date of conversion shall be taxable as Business Income
- Definition of income amended consequentially- S.2(24)

CONVERSION OF INVENTORY TO CAPITAL ASSET:

- On transfer of such capital asset, COA shall be the FMV on the date of conversion – S.49
- POH for such capital asset to be reckoned from the date of conversion

BUSINESS CONNECTION...

- S.9(1)(i) Explanation 2 substituted to include:
 - An agent who has a principal role leading to conclusion of contracts

- New Explanation 2A inserted:
 - Significant Economic presence of a Non resident in India shall constitute “Business Connection”

BUSINESS CONNECTION...

- Significant Economic Presence:
 - Transaction in respect of goods or property including download of data or software
 - Systematic & Continuous soliciting of business activities
 - * Prescribed*
 - Widened scope of Business Connection in line with BEPS & DAPE norms of DTAA
- Equalisation Levy?

SALARY

- S. 16(ia): Standard Deduction of Rs.40,000 introduced
- Transfer allowance in case of other than differently abled individuals withdrawn
- Proviso to S.17(2) pertaining to Medical reimbursements upto Rs. 15,000 withdrawn

MINIMISE HARDSHIPS...

- S.43CA / S.50C & S.56(2)(x)
- To minimise hardships for genuine transaction, no adjustments shall be made in case where variation between Stamp Duty Value & Sale Consideration is not more than 5% of the Sale Consideration.

BUSINESS INCOME...

- Insertion of S.36(1)(xviii)- Marked to Market losses or other expected losses computed in accordance with ICDS shall be allowed
- Insertion of S.40A(13): No deduction in respect of Marked to Market losses, other than those specified in S.36(1)(xviii) shall be allowed.

BUSINESS INCOME

- Gain or loss shall be in respect of all foreign currency transactions incl:
- Monetary items & non monetary items
- Translation of financial statements of foreign operations
- Forward exchange contracts
- Foreign currency translation reserves

BUSINESS INCOME

- S. 43AA:
 - Subject to S.43A
 - Any gain / loss on account of any change in foreign exchange rates to be treated as income / loss
 - To be computed in accordance with ICDS

BUSINESS INCOME...

- S. 43CB:

- Profits & gains arising from a construction contract or a contract for providing services to be determined on percentage completion method, in line with ICDS.

BUSINESS INCOME

- S. 43CB:

- For contract of providing services:
- If duration is less than 90 days, profits to be determined on the basis of project completion method

- If it involves indeterminate no. of acts over specific period: on basis of SLM

****Contract revenue to include retention money/
contract costs not to be reduced by any incidental
income/dividends or capital gains.**

BUSINESS INCOME

- S. 44AE
- For heavy goods vehicle: amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight for every month or part of the month for heavy goods vehicle owned

CAPITAL GAINS...

- Amendment to S.54EC:
 - Exemption now restricted to capital gains from transfer of capital asset arising from transfer of land/ building
 - Lock in period for investments increased to 5 years from 3 years.

SECTION 80-D

- Limit in respect of mediclaim insurance premium & medical expenses increased to Rs. 50,000 from Rs.30,000
- Differentiation between “very senior” and senior citizen for this section, withdrawn
- Insertion of Sub-section 4A: where amount is paid in lumpsum to keep in force a health insurance policy, a deduction equal to the appropriate fraction shall be allowed for each of the previous year.

SECTION 80DDB:

- Limit of deduction increased to Rs. 1 lac from Rs. 60,000/-
- Differentiation between senior & very senior citizen withdrawn

SECTION 112A

- Capital Gains arising from LTCA being equity share in a company or unit of equity oriented fund or unit of business trust
- Equity Share: STT has been paid on acquisition & transfer of such asset
- Unit: STT has been paid on transfer of such capital asset

SECTION 112A

- Liable to tax @ 10% on such long term capital gains exceeding Rs. 1 Lac
- Capital gains to be computed without Indexation
- COA for LTCA acquired prior to 1st February 2018 will be:
Higher of (i) Actual Cost of Acquisition
&
(ii) Lower of: (a). FMV of such asset
(b)FVC on transfer of the capital asset

SECTION 112A

- Un-utilised basic exemption limit
- Rebate u/s 87A allowed from the income tax on the total income as reduced by tax payable on such capital gains.
- Chapter VI-A Deduction to be allowed from gross total income as reduced by such capital gains.

SECTION 115-O

- Deemed dividend u/s 2(22)(e) in respect of closely held companies, now taxable @ 30%
- Company to now pay Dividend Distribution tax on the amount of such dividend.

S. 115BBE

- In Sub-section (2), “and clause b” inserted
- Implication: No deduction in respect of any expenditure or allowance shall be allowed even in respect of Income determined by the AO under S.68/69/69A/69B/69C/69D

SECTION 10:

- Insertion of new S.10(6D): Income arising to Non resident or Foreign Company by way of Royalty, FTS rendered in or outside India to National Technical Research Organisation shall be exempt
- 10(23C): Provisions of S.40(a)(ia) & S.40A(3)/(3A) made applicable
- 10(12A)- “Employee” substituted by “Assessee”
- S.10(38) omitted w.e.f 1st April, 2018.

DEFINITIONS:

- Amendment to Sec 2(22)- Dividend
- Insertion of explanation 2A
- Accumulated profits whether capitalised or not, or losses of the amalgamated company shall be increased by accumulated profits, whether capitalised or not of the amalgamating company.

SECTION II:

- S.11(1): In determination of the amount of application, provisions of S.40(a)(ia) & 40A(3)/(3A) shall be applicable as they apply in computation of PGBP under Chapter IV-D
- Year of taxability/ disallowance – Year of violation

SECTION 80-IAC

- Deduction in respect of Start-ups
- Eligible business now to include businesses with high potential of employment generation / wealth management
- Turnover, now not to exceed Rs. 25Crores for a period of 7 years beginning from the year in which the entity was incorporated

SECTION 80JJAA:

- Provisions now extended to assessee engaged in business of footwear or leather products
 - Where an employee is employed during the PY for a period of less than the minimum days,
 - But is employed in the immediately succeeding year for the period of minimum days, he shall be deemed to have been employed in the succeeding year, and provisions of this section shall apply accordingly.

SECTION 80PA:

- Deduction for Producer Companies
- 100% of Profits between April'19 – April '25
- Conditions prescribed
- Producer Companies – Concept under the Companies Act.

SECTION 80TTA

- Amended to exclude assessee covered u/s 80TTB

SECTION 80TTB

- Deduction in respect of Interest income included in the gross total income of Senior Citizens upto Rs.50,000
- Interest on deposits with: Banking Company / Banking Institution / Co-op soc / Post Office
- No deduction in respect of any interest derived from any deposit held by or on behalf of a firm /AOP/ BOI

OTHERS...

- 115R- Tax on dividend distributed by Mutual Funds
- Requirements to Obtain PAN – S.139
- Signing of Return of Income – S.140
- S.143(1) – E-assessment Procedures