Amendment to w.e.f. Assessment Year 2019-2020 under Income Tax Act.

Section 2(24)

The following amendments have been made to the definition of income under section 2(24) with effect from the assessment year 20 19-20 —

- ***Conversion of stock-in-trade into capital asset*** **- A new sub-clause *(xiia)* has been inserted in section 2(24). It is applicable in the case of conversion of stock-in-trade into capital asset. By virtue of this amendment, fair market value of such inventory will be included in income.**

- ***Compensation on termination of employment or modification of terms of employment*** **- A new sub-clause *(xviib)* has been inserted in section 2(24) so as to include any compensation or other payment referred to in section 56(2)(x) *[i.e.,* compensation on termination of employment or modification of terms of employment] also within the definition of income**

Section 2(42A)

The following amendments have been made to the scheme of section *2(42A)* with effect from the assessment year 2019-20 —

- **Section *2(42A), inter alia,* provides for determination of period for which the capital asset is held by the assessee (in order to ascertain whether the capital asset Is Long-Term Capital Asset or Short-Term Capital Asset). A new sub-clause *(ba)* has been inserted in *Explanation 1(i)* so as to provide that in case inventory is converted into or treated as a capital asset, the period of holding shall be reckoned from the date of its conversion or the treatment.**

Provisions illustrated **- X is a dealer in shares. He purchases 1,000 equity shares in A Ltd. as inventory on January 10, 2018. These shares are listed in Bombay Stock Exchange. These shares are converted into capital asset on May 2, 2018. The capital asset is transferred on March 15, 2019. It is transfer of short-term capital asset (period of holding : from May 2, 2018 to March 15, 2019).**

- **For the purpose of section 2(42A), "equity oriented mutual fund" will have the same meaning assigned to it in section 112A**

Section-9

The following amendments have been made to section 9 with effect from the assessment year 2019-20—

- ***Aligning the scope of "business connection" with modified PE Rule as per Multilateral Instrument (MLI)*** **- Section 9(1)(i) has been 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. This rule is applicable if the contract is —**

  a. **in the name of the non-resident; or**

  b. **for the transfer of the ownership of, or for the granting of the right to use, property owned by that nonresident or that the non-resident has the right to use; or**

  c. **for the provision of services by that non-resident.**

- ***Business connection to include "significant economic presence"*** **- Section 9(1)(i) has been amended to provide that "significant economic presence" in India shall also constitute "business connection". For this purpose, "significant economic presence" shall mean —**

  a. **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**

  b. **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.**

The following points should be noted —

1. **Only so much of income as is attributable to above transactions or**

activities, shall be deemed to accrue or arise in India.

2. The above transactions or activities shall constitute significant economic presence in India, whether or not, —

   a. the agreement for such transactions or activities is entered in India; or

   b. the non-resident has a residence or place of business in India; or

   c. the non-resident renders services in India.

3. Aforesaid conditions are mutually exclusive.

4. The threshold of "revenue" and the "users" in India will be decided by the Government after consultation with the stakeholders.

5. Unless corresponding modifications to PE rules are made in the DTAAs, the cross border business profits will continue to be taxed as per the existing treaty rules

Section-16 & 17

Standard deduction to salaried employees and withdrawal of exemption pertaining to medical reimbursement [Secs. 16 and 17]

The following amendments have been made to the scheme of sections 16 and 17 :

- ***Standard deduction*** - Clause *(ia)* has been inserted in section 16. This clause provides standard deduction from the assessment year 2019-20 in computing income chargeable under the head "Salaries". The amount of standard deduction will be Rs. 40,000 or the amount of salary, whichever is lower.

- ***Withdrawal of exemption pertaining to reimbursement of medical expenditure*** - Section 17(2) has been amended to withdraw exemption pertaining to reimbursement of medical expenditure of Rs. 15,000. This modification is also applicable from the assessment year 2019-20. However, other existing exemptions which are available for different medical facilities *(e.g.,* medical facility to employees in Government hospitals and approved hospitals, payment of medi-claim insurance premium by employer) will continue.

Further, the Finance Minister in his budget speech has announced to withdraw

the present exemption of Rs.1,600 per month of transport allowance (however, transport allowance exemption at enhanced rate of Rs. 3,200 per month shall continue to be available to differently abled persons).

EXAMPLES –

X (48 years) is a cos accountant and employed by XYZ Ltd., Mumbai. He gets Rs. 2,00,000 per month as salary and Rs. 2,00,000 per annum as bonus. Besides, A Ltd. provides the following—

- **Transport allowance : Rs. 1,600 per month.**
- **Medical facility in a hospital which is owned by XYZ Ltd. Cost to A Ltd. for providing this facility to X: Rs. 40,000.**
- **Medical facility in a Government hospital: Rs. 28,000.**
- **Medical facility in a private hospital (the same hospital is recommended by the Government for the medical treatment of Government employees): Rs. 18,000.**
- **Medical facility (rule 3A) in an hospital approved by the Chief Commissioner : Rs. 53,000.**
- **Medi-claim insurance premium paid by XYZ Ltd. for X and his family : Rs. 45,000.**
- **Reimbursement by XYZ Ltd. of other medical expenditure : Rs. 18,000.**

Income of X from salary will be calculated as follows —

	A.Y. 2018-19	A.Y. 2019-20
Basic salary	24,00,000	24,00,000
Bonus	2,00,000	2,00,000
Transport allowance (Rs. 1600 x 12)	Nil	19,200
Medical facility in XYZ Ltd.'s hospital	Nil	Nil
Medical facility in Government hospital	Nil	Nil

Medical facility in a Private Hospital	**Nil**	**Nil**
Medical facility (Rule 3A)	**Nil**	**Nil**
Medi-claim insurance premium paid by NeXT Ltd.	**Nil**	**Nil**
Reimbursement of other medical expenditure (reimbursement up to Rs. 15,000 is not chargeable to tax for the Assessment Year 2018-19)	**3,000**	**18,000**
Gross Salary	**26,03,000**	**26,37,200**
Less : Standard Deduction U/s 16(ia)	**Nil**	**40,000**
Income under the head "Salaries"	**26,03,000**	**25,97,200**

Difference in Taxable Salary is only Rs. 5,800.

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[Section-36 and 40A]

The following amendments have been made to sections 36 and 40A (with effect from the assessment year 2017-18)—

- **Section -36(1) provides for allowing certain deductions in computing income under the head "Profits and gains of business or profession". A new clause *(xviii)* has been inserted in the said sub-section so as to provide that deduction in respect of any marked to market loss (or other expected loss) shall be allowed. However, deduction is available only if such loss is computed in accordance with ICDS.**
- **Section - 40A provides for disallowance of certain expenses or payments while computing income under the head "Profits and gains of business or**

profession". A new sub-section (13) has been inserted in the said section so as to provide that no deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss except as allowable under section 36(1)(xviii)

[Section-43]

The following amendments have been made to section 43 —

***"Actual cost" when inventory is converted into capital asset* - When inventory is converted into capital asset, "actual cost" of such asset for the purpose of section *43(1)* shall be the fair market value on the date of conversion which is taken into consideration for the purpose of section 28(via) [applicable from the assessment year 2019-20].**

***Tax treatment of transactions in respect of trading in agricultural commodity derivatives [Sec. 43(5)]* - Section 43(5) defines speculative transaction. The proviso to section 43(5), however, stipulates certain transactions to be non-speculative nature, even though the contracts are settled otherwise than by the actual delivery or transfer of the commodity or scraps. Clause *(e)* of the said proviso provides that trading in commodity derivatives carried out in a recognized stock exchange, which is chargeable to commodity transaction tax, is a non-speculative transaction.**

Commodity transaction tax (CTT) was introduced *vide* Finance Act, 2013 to bring transactions relating to non-agricultural commodity derivatives under the tax net while keeping the agricultural commodity derivatives exempt from CTT. Since no CTT is paid, the benefit of clause *(e)* of the proviso to section 43(5) is not available to transaction in respect of trading of agricultural commodity derivatives and, accordingly, such transactions are held to be speculative transactions.

- ***Amendment* - In order to encourage participation in trading of agricultural commodity derivatives, section 43(5) has been amended (with effect from the assessment year 2019-20) to provide that a transaction in respect of trading of agricultural commodity derivatives, which is not chargeable to CTT, in a registered stock exchange or registered association, will be treated as non-speculative transaction.**

[Section-43CA]

Section 43CA provides that in case of transfer of land or building (other than a capital asset), stamp duty value shall be taken as the full value of consideration for the purposes of computing business profits, if stamp duty value is more than actual consideration. The said section also provides that where the date of agreement fixing the value of consideration for transfer and the date of registration are not the same, the stamp duty value on the date of the agreement shall be taken (if the amount of consideration or a part thereof has been received by any mode other than cash on or before the date of agreement).

'Amendment - **A proviso has been inserted in section 43CA(1) (with effect from the assessment year 2019-20) to provide that where the stamp duty value does not exceed 105 per cent of the consideration received (or accruing as a result of the transfer), the consideration so received (or accruing as a result of the transfer) shall be deemed to be the full value of the consideration. In other words, section 43CA will be applicable only in those cases, where stamp duty value is more than 105% of actual consideration. Further, section 43CA(4) has been amended (with effect from the assessment year 2019-20) to provide that where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer are not the same, the stamp duty value on the date of agreement shall be taken where the amount of consideration (or a part thereof) has been received by way of an account-payee cheque/draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of the asset**

[Section-44AE]

Section 44AE, *inter alia,* provides that, the profits and gains shall be deemed to be an amount equal to Rs. 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. This presumptive income scheme of computation of income at the rate of Rs. 7,500 per month 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. Accordingly, the transporters who owns (less than 10 goods carriages) large sized goods carriages are also availing of the benefit of section 44AE. Even though the profit margins of large capacity goods carriages are higher than small capacity goods carriages, the tax consequences are similar, which is against the principle of tax

equity.

Amendment - **Section 44AE(2) has been substituted (with effect from the assessment year 2019-20) so as to provide that for a heavy goods vehicle, the profits and gains shall be an amount equal to Rs. 1,000 per ton of gross vehicle weight (or unladen weight) for every month (or part of a month) during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.**

In the case of a goods carriage other than heavy vehicle, the profits and gains shall be an amount equal to Rs. 7,500 for every month (or part of a month) during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.

For this purpose, "heavy goods vehicle" means any goods carriage the gross vehicle weight of which exceeds 12,000 kilograms

[Section-49]

Cost of acquisition in the case of conversion of stock-in-trade into capital asset [Sec. 49]

Section 49 has been amended (with effect from the assessment year 2019-20) to provide that if stock- in-trade is converted into capital asset, cost of acquisition of such capital asset shall be deemed to be the fair market value which has been taken into account for the purpose of section *28(via) [i.e.,* fair market value on the date of conversion of stock-in-trade into capital asset].

The following points are noted from the records of X —

1. **On May 14, 2017, *X* purchases 10,000 equity shares in XYZ Ltd. at the rate of Rs. 20 per share as his stock-in-trade [securities transaction tax (STT) paid @ 0.1 % .**
2. **This stock-in-trade is not sold till March 31,2018. Quoted value of XYZ Ltd.'s share on March 31,2018 is Rs. 22.**
3. **The above inventory of 10,000 equity shares is converted into capital asset on July 10,2018. Quoted value of XYZ Ltd.'s share on July 10, 2018 is Rs. 26.**

4. **X transfers 2,000 shares in XYZ Ltd. on March 25,2019 at the rate of Rs. 29 per share (STT paid @ 0.1 percent).**

5. **X transfers 8,000 shares in XYZ Ltd. on August 14,2019 at the rate of Rs. 45 per share (STT paid @ 0.1%).**

Find out tax consequences of these transactions (assume that *X* has not undertaken any other transaction during the previous years 2017-18 and 2018-19)

[Section-56(2)(x)]

Section 56(2)(x), *inter alia,* provides the following —

1. **A person receives an immovable property from any person.**

2. **Stamp duty value is more than consideration.**

3. **Difference between consideration and stamp duty value is more than Rs. 50,000.**

If these conditions are satisfied, the difference between consideration and stamp duty value is taxable as income in the hands of recipient under section 56(2)(x) under the head "Income from other sources".

***Amendments* - The above provisions have been amended as follows —**

- ***Section 56(2)(x) applicable only if stamp duty value exceeds 105% of consideration -*** **From the assessment year 2019-20, section 56(2)(x) will be applicable if the following conditions are satisfied —**

  1. **A person receives an immovable property from any person.**

  2. **Stamp duty value exceeds 105 per cent of consideration.**

  3. **Difference between consideration and stamp duty value is more than Rs. 50,000.**

From the assessment year 2019-20, the difference between stamp duty value and consideration is taxable under the head "Income from other sources" only if the above conditions are satisfied.

- ***Section 56(2)(x) not applicable in transactions between holding and 100% subsidiary companies*** **- Fourth proviso to section 56(2)(x) has been amended with effect from the assessment year 2018-19. After this amendment, section 56(2)(x) will not be applicable if a capital asset is**

received by a holding company from its 100 per cent subsidiary company (and *vice versa)* provided the transferee-company is an Indian company.

[Section-79]

Section *79, inter alia,* provides that where a change in shareholding has taken place in a previous year in the case of a closely held company, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless on the last day of the previous year the shares of the company carrying not less than 51 per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51 per cent of the voting power on the last day of the year or years in which the loss was incurred.

***Amendment* - The above provisions of section 79 have been amended (with effect from the assessment year 2018-19). After the amendment, section 79 shall not apply to a company where a change in the shareholding takes place in a previous year pursuant to approved resolution plan under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal CIT/CIT**

[Section-80AC]

Deductions in respect of certain incomes not to be allowed unless return is filed by the due date [Sec. 80AC]

Section 8OAC provides that deduction under sections 80-IA, 80-lAB, 80-TB, 80-IC, 80-ID and 80-IE is not available if return of income is submitted by the assessee after the due date of submission of return of income specified under section 139(1). This burden is not cast upon assessees claiming deductions under several other similar provisions.

***Amendment* - In view of the above, the scope of section 80AC has been extended (with effect from the assessment year 2018-19) 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. The table given below highlights the provisions of section 80AC before and after amendment —**

For assessment years 2006-07 to	**Deduction under sections 80-IA, 80-lAB, 80-TB, 80-IC, 80-ID and 80-IE is not available if return of income is**

2017-18	**submitted after due date given in section 139(1)**
From the assessment year 2018-19	**Deduction under sections 80-IA, 80-TAB, 80-IAC, 80-TB, 80-IBA, 80-IC, 80-ID, 80-IE, 80JJA, 80JJAA, 80LA, 80P, 80PA, 80QQB and 80RRB is not available if return of income is submitted after due date given in section 139(1)**

[Section-80D]

The following amendments have been made to the scheme of section 80D with effect from the assessment year 2019-20 as follows –

- **Section 80D, *inter alia,* provides that for medical insurance (or preventive health 'check-up of a senior citizen), deduction of Rs. 30,000 shall be allowed. Further, in the case of super senior citizens, the said section also provides for a deduction of medical expenditure within the overall limits of Rs. 30,000.**

  The above monetary limits have been extended so as to provide that the deduction of Rs. 50,000 in aggregate shall be allowed to senior citizens in respect of medical insurance or preventive health check-up or medical expenditure.

- **In case of single premium health insurance policies having cover of more than one year, deduction under section 80D shall be allowed on proportionate basis for the number of years for which health insurance cover is provided, subject to the specified monetary limit.**

Provisions of section 80D before and after amendment. **Section 80D provisions (before and after amendment) are narrated in the table given below —**

	Deduction in the case of individual		***Deduction in the case of HUF***
For whose benefit payment can be made	**Family**	**Parents**	**Any member of HUF**

A.	***a.*** **Medi-claim insurance premium**	**Eligible**	**Eligible**	**Eligible**
	b. **Contribution to CGHS / notified scheme**	**Eligible**	**-**	**-**
	c. **Preventive health check-up payment**	**Eligible**	**Eligible**	**-**
	Maximum Deduction : • **General deduction [applicable in respect of.(a),** ***(b)*** **and** ***(c)]*** • **Additional deduction [applicable only in case of** ***(a)*** **when Mediclaim policy is taken on the life of a senior citizen]**	**Rs. 25,000**	**Rs. 25,000**	**Rs. 25,000**
	For the assessment years 2016-17 to 2018-19	**Rs. 5,000**	**Rs. 5,000**	**Rs. 5,000**
	From the assessment year 2019-20	**Rs. 25,000**	**Rs. 25,000**	**Rs. 25,000**
B.	**Medical expenditure on the health of a person who is a super senior citizen (senior citizen from the assessment year 2019-20) if Mediclaim insurance is not paid on the health of such person**	**Eligible**	**Eligible**	**Eligible**
	Maximum deduction in respect of (B) - **For the assessment years 2016-17 to 2018-19**	**Rs. 30,000**	**Rs. 30,000**	**Rs. 30,000**
C.	**From the assessment year 2019-20**	**Rs. 50,000**	**Rs. 50,000**	**Rs. 50,000**
	Maximum deduction in respect of ***(A)*** **and (B) -**	**Rs. 30,000**	**Rs. 30,000**	**Rs. 30,000**

	⍰ For the assessment years 2016-17 to 2018-19			
	⍰ From the assessment year 2019-20	Rs. 50,000	Rs. 50,000	Rs. 50,000

[Section-80DDB]

Section 8ODDB, *inter alia,* provides a deduction to an individual and HUF with regard to amount paid for medical treatment of specified diseases in respect of super senior citizen up to Rs. 80,000 and in case of senior citizens up to Rs. 60,000 subject to specified conditions.

***Amendment* - Section 8ODDB has been amended (with effect from the assessment year 2019-20) so as to raise the above monetary limit of deduction to Rs. 1,00,000 for both senior citizens and super senior citizens**

[Section-80JJAA (Incentive for Employment Generation)]

Section - 80JJAA provides a deduction of 30 per cent [in addition to normal deduction of 100 per cent under section 37(1)] in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year. However, the minimum period of employment is relaxed to 150 days in the case of apparel industry.

***Amendment* - The following amendments have been made with effect from the assessment year 2019-20 —**

1. **In order to encourage creation of new employment, the above concession of 150 days has been extended to footwear and leather industry. After the amendment, in the case of business of manufacturing of apparel, footwear or leather products, the minimum number of days of employment in the years of employment shall be 150 days in place of 240 days.**

2. **Where a new employee is employed during the previous year for a period of less than 240 days (or 150 days, as the case may be) but is employed for a period of 240 days (or 150 days, as the case may be), in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of section 80JJAA shall apply accordingly**

[Section-80PA]

(Deduction in respect of certain income of Producer Companies)

Section 80PA has been inserted with effect from the assessment year 2019-20.

- ***Conditions -*** **in order to avail of deduction under section 80PA, the following conditions should be satisfied —**

1. **The assessee is a producer company under section 581A(i) (of the Companies Act, 1956.**

2. **The total turnover of the producer company is less than Rs. 100 crore in any previous year.**

3. **The gross total income of the producer company includes any profits and gains derived from "eligible business".**

- ***Amount of deduction -*** **If the above conditions are satisfied, 100 per cent of the profit and gain attributable to "eligible business" is deductible for the assessment years 2019-20 to 2024-25. If the assessee is also entitled to deduction under any other provision or provisions of Chapter VI-A *(i.e.,* sections 80C to 80U), the deduction under section 8OPA shall be allowed from the gross total income as reduced by the deductions under such other provisions.**

"Eligible business" - **Only income from eligible business (not from all activities given under section 581B of the Companies Act.) is qualified for deduction under section 80PA. "Eligible business" for the purpose of section 80PA means —**

a. **the marketing of agricultural produce grown by the members; or**

b. **the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or**

c. **the processing of the agricultural produce of the members**

[Section-80TTA]

(Income By Way Of Interest On Deposits In A Savings Bank Account)

Section 80TTA provides for a deduction (up to Rs. 10,000) to an individual/HUF if his income includes any income by way of interest on deposits in a savings bank account (or savings account with post office / co-operative society).

- ***Amendment -*** **With effect from the assessment year 2019-20, a senior citizen**

(who can avail of deduction under section 80TTB) shall not be eligible for the deduction under section 80TTA

[Section-80TTB]

(Deduction in respect of Interest on Deposits in case of Senior Citizens)

Deduction under section 80TTB is available (from the assessment year 2019-20), if the following conditions are satisfied —

1. **The assessee is a senior citizen *(i.e.,* a resident individual who is at least 60 years of age at any time during the previous year).**
2. **His income includes interest on deposits with a bank/co-operative bank/post office (it may be interest on fixed deposits, interest on savings account or any other interest).**

• ***Amount of deduction -*** **If these conditions are satisfied, the assessee can claim deduction under section 80TTB which is equal to Rs. 50,000 or the amount of aforesaid interest, whichever is lower.**

Where the aforesaid income is derived from any deposit in an account held by, or on behalf of a firm, an association of persons or a body of individuals, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the association or body.

[Section-115AD]

The provisions of Section 115AD, inter alia, provide that where the total income of a Foreign Institutional Investor (FII) includes income by way of Long-Term Capital Gains arising from the transfer of certain Securities , such Capital Gains shall be chargeable to Tax at the rate of 10%. However, Long-Term Capital Gain (where Securities Transaction Tax is applicable) is Exempt by virtue of Section 10(38).

• ***Amendment -*** **After the withdrawal of exemption under section 10(38), long-term capital gain on transfer of equity shares/equity oriented units of mutual fund will become taxable in the hands of FIIs also. As in the case of domestic investors, the FIIs will also be liable to tax on such long-term capital gains only in respect of amount of such gains exceeding Rs. 1 lakh. The provisions of section 115AD have been amended accordingly.**

[Section-115BA]

Section 115BA provides that subject to the fulfilment of conditions specified therein, the total income of certain newly set-up domestic companies shall, at their option, be taxed at the rate of 25%. However, the rate of 25% is not applicable in the case of income covered by section 111A or 112 of Chapter XII (income covered by these sections will be taxable at the rate specified in these sections).

- ***Amendment -*** **Section 115BA has been amended (with effect from the assessment year 2017-18) to provide that the provisions of this section shall be subject to the other provisions of the said Chapter XII instead of only sections 111A and 112. If a domestic company (which has opted for 25% tax rate under section115BA by uploading Form No. 10-IB) has incomes taxable under other provisions of Chapter XII *(i.e.,* sections 110 to 115BBG), then tax on such other incomes will be calculated as per the rate specified by these sections.**

[Section-115BBE]

Section 115BBE(1) provides for tax on income referred to in sections 68, 69, 69A, 69B, 69C and 69D at a higher rate of 60% (+ 25% SC + EC + SHEC). Sub-section (1) of section 115BBE covers the following cases —

Clause* (a) *to section 115BBE(1) - **Total income of the assessee includes any income referred to in sections 68 to 69D and such income is reflected in the return of income furnished under section 139.**

Clause (b) to section 115BBE(1) - **Total income of the assessee, determined by the Assessing Officer, includes any income referred to in sections 68 to 69D, if such income is not covered under clause (a).**

- ***Amendment -*** **Sub-section (2) of said section provides that no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any provision of the Act in computing his income referred to in clause *(a)* of sub-section (1).**

In order to rationalize the provisions of section 115BBE, the said sub-section (2) has been amended (with effect from the assessment year 2017-18) so as to also include income referred to in clause *(b)* of sub-section (1).

[Section-115JB]

Section 115JB 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 Consequently, where the loss brought forward or unabsorbed depreciation is *nil,* no deduction is allowed. This non-deduction is a barrier to rehabilitating companies seeking insolvency resolution.

- ***Amendment* - In view of the above, section 115JB has been amended (with effect from the assessment year 2018-19) to provide that the aggregate amount of unabsorbed depreciation and loss (excluding unabsorbed depreciation) brought forward shall be allowed to be reduced from the book profit, if a company's application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority.**

Consequently, a company whose application has been admitted would henceforth be entitled to reduce the loss brought forward (excluding unabsorbed depreciation) and unabsorbed depreciation for the purposes of computing book profit under section 115JB.

A clarificatory amendment is also made in section 115JB (with retrospective effect from the assessment year 2001-02) to provide that the MAT provisions shall not be applicable (and shall be deemed never to. have been applicable) to a foreign company, if its total income comprises solely of profits and gains from business referred to in sections 44B, 44BB, 44BBA and 44BBB and such income has been offered to tax at the rates specified in the said sections.

[Section-115-R & 115-T]

The following amendments have been made to sections 115R and 115T with effect from April 1,2018—

1. **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 [+ 12% of such tax as surcharge + 4% of tax and surcharge as Health and Education Cess, effective rate: 12.9422 %].**

2. **For this purpose, Equity Oriented Fund will have the same meaning assigned to it in the new section 112A.**

Amendment to [Section-139-A] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

(Entities to apply for PAN in certain cases)

Section 139A, *inter alia,* provides that every person specified therein and who has not been allotted a permanent account number (PAN) shall apply to the Assessing Officer for allotment of a PAN. The following amendments have been made (with effect from April 1, 2018) to the scheme of section 139A —

1. **Every person (not being an individual) which enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year shall be required to apply to the Assessing Officer for allotment of PAN.**

2. **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 such entities shall also apply to the Assessing Officer for allotment of PAN.**

3. **The definition of "permanent account number under the new series" has been modified. After the modification, PAN may be issued in the form of a laminated card (or otherwise).**

Amendment to [Section-140] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

(Verification Of Return)

Section 140 regulates verification of return. It has been amended to provide that where in respect of a company an application has been admitted by the Adjudicating Authority under section 7, 9 or 10 of the Insolvency and Bankruptcy Code, 2016,the return shall be verified by the insolvency professional appointed by such Adjudicating Authority. This provision is applicable with effect from April 1, 2018 and will apply in relation to the assessment year 2018-19 and subsequent years.

Amendment to [Section-143] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

(Provisions Regulating Assessment)

The following amendments have been made under section 143 —

1. **Section 143(1)(a) provides that at the time of processing of return of income, the total income (or loss) shall be computed after making the adjustments specified in clauses (i) to *(vi)* therein. Sub-clause *(vi)* of the said clause provides for adjustment in 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. This provision has been amended to provide that no adjustment under sub-clause *(vi)* shall be made in respect of any return furnished for the assessment year 2018-19 and subsequent years. In other words, provisions of sub-clause *(vi)* shall be applicable only for the assessment year 2017-18.**

2. **A new scheme for the purpose of making assessments has been coined so as to impart greater transparency and accountability, by eliminating the interface between the Assessing Officer and the assessee, optimal utilization of the resources, and introduction of team-based assessment. For this purpose, a new sub-section (3A) has been inserted (with effect from April 1, 2018) which would enable the Central Government to prescribe the aforementioned new scheme for scrutiny assessments, by way of notification in the Official Gazette. Further, sub-section (3B) has been inserted which empowers the Central Government to direct (by notification in the Official Gazette) that any of the provisions relating to**

assessment shall not apply, or shall apply with such exceptions, modifications and adaptations as may be specified therein. However, no such direction shall be issued after March 31, 2020.

Amendment in relation to ICDS [Sees. 145A and 145B] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

The Delhi High Court has made a few observations on the issue of applicability of ICDS in the case of *Chamber of Tax Consultants* v. *UOI [2017]* 87 taxmann.com 92 (Delhi). In order to bring certainty in the wake of these pronouncements, the following amendments have been made from the assessment year 2017-18 —

1. **Section 36 has been amended to provide that marked to market loss or other expected loss as computed in the manner provided in ICDS shall be allowed deduction.**

2. **Section 40A has been amended to provide that no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except as allowable under newly inserted provisions of section *36(1)(xviii).***

3. **Section 43AA has been inserted to provide that 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, which shall be computed in the manner provided in ICDS.**

4. **A new section 43CB has been inserted 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, and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.**

5. **New sections 145A and 145B have been inserted. These provisions are given below.**

Method of accounting in certain cases [Sec. 145A] **- For the purpose of determining the income chargeable under the head "Profits and gains of business or profession", the following valuation rules will apply —**

1. **The valuation of inventory shall be made at lower of actual cost or net**

realizable value computed in the manner provided In ICDS.

2. **The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.**

3. **Inventory (being securities not listed, or listed but not quoted, on a recognised stock exchange) shall be valued at actual cost initially recognised in the manner provided in ICDS.**

4. **Inventory (being securities held by a scheduled bank or financial institution) shall be valued in accordance with ICDS after taking into account extant guidelines issued by the RBI.**

5. **Inventory (being listed securities) shall be valued at lower of actual cost or net realisable value in the manner provided in ICDS and for this purpose the comparison of actual cost and net realisable value shall be done category-wise.**

6. **Any tax, duty, cess or fee, by whatever name called, under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence of such payment for the purposes of the said section.**

Taxation on certain incomes [Sec. 145B] - **Section 145 provides mode of taxation of the following incomes —**

1. **Interest received by an assessee on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received.**

2. **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.**

3. **Assistance in the form of subsidy (or grant or cash incentive or duty drawback or waiver or concession or reimbursement) as referred to in section *2(24)(xviii)* shall be 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**

Amendment to [Section-193] w.e.f. Assessment Year 2019-2020 under Income

Tax Act.

Government of India introduced a new 7.75% GOT Savings (Taxable) Bonds, 2018. The interest received under the new bonds will continue to be taxed as in the case of the earlier one. The provisions of section 193 have been amended (with effect from April 1, 2018) to allow for deduction of tax at source at the time of making payment of interest on such bonds to residents. However, no TDS will be deducted if the amount of interest is less than or equal to Rs. 10,000 during the financial year.

Amendment to [Section-194-A] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

Interest (other than interest on securities) is subject to tax deduction under section 194A. Tax deduction is applicable if the aggregate amount of interest paid / payable by a bank / co-operative bank / post office exceeds Rs. 10,000 in a financial year. This threshold limit of Rs. 10,000 has been increased (with effect from April 1, 2018) to Rs. 50,000 if the recipient of interest is a senior citizen *(i.e.* an Indian citizen who is of age of 60 years or more at any time during the previous year).

Amendments to the structure of Authority for Advance Rulings [Sec. 245-O and 245-Q] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

Section 245-O, *inter alia,* provides for constitution of an Authority for Advance Rulings. This section has been amended (with effect from April 1, 2018) so as to provide that the said Authority shall cease to act as an Authority for Advance Rulings for the purpose of Chapter V of the Customs Act, 1962 on and from the date of appointment of Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962 and the Authority for Advance Rulings under section 245-O shall act as an Appellate Authority, for the purpose of Chapter V of the Customs Act, 1962 on and from the said date. Other relevant points are given below

1. **The Authority for Advance Rulings under section 245-O shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance Rulings for the purposes of Chapter V of the Customs Act after the date of appointment of Customs Authority for Advance Rulings.**

2. **Where the Authority for Advance Rulings under section 245-O is dealing with *an* application seeking advance ruling in the matters of the Income-**

tax Act, the revenue Member of the Bench shall be such member as referred to in sub-clause (i) of sub-section (3)(c).

3. **Further, section 245Q has been amended so as to omit the provisions with regard to admissibility of applications for advance ruling under Chapter V of the Customs Act, 1962.**

Amendment to [Section-271FA] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

(Penalty for failure to furnish statement of Financial Transaction or Reportable Account)

A penalty is imposable under section 271FA if a person [who is required to furnish the statement of financial transaction or reportable account under section 285BA(1)] fails to furnish such statement within the prescribed time. The quantum of penalty is Rs. 100 for every day of default. Further, it provides that in case such person fails to furnish the statement of financial transaction or reportable account within the period specified in the notice issued under section 285BA(5), he shall be liable to pay penalty of Rs. 500 for every day of default.

- ***Amendment -*** **The aforesaid provisions have been amended (with effect from April 1,2018) so as to increase the penalty leviable from Rs. 100 to Rs. 500 and from Rs. 500 to Rs. 1,000, for each day of continuing default**

Amendment to [Section-276CC] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

Section 276CC provides that if a person willfully fails to furnish in due time the return of income which he is required to furnish, he shall be punishable with imprisonment for a term, as specified therein, with fine.

- ***Amendment -*** **Proviso to section 276CC provides that a person shall not be proceeded against under the said section for failure to furnish return if the tax payable by him on the total income determined on regular assessment (as reduced by advance tax/TDS) does not exceed Rs. 3,000. This proviso has been amended (with effect from April 1, 2018) so as to provide that this proviso will not be applicable in the case of a company.**

Amendment to [Section-286] w.e.f. Assessment Year 2019-2020 under Income Tax Act.

(Provisions regulating Country-by-Country Report (CbCR))

Section 286 contains provisions relating to specific reporting regime in the form of Country-by- Country Report (CbCR) in respect of an international group. The following amendments have been made to the scheme of section 286 with effect from the assessment year 2017-18 -

1. **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, has been extended to 12 months from the end of reporting accounting year.**

2. **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.**

3. **The time allowed for furnishing the CbCR, *in* the case of constituent entity resident in India, having a non-resident parent, shall be the period as may be prescribed.**

4. **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.**

5. **Agreement would mean an agreement referred to in section 90(1) / 90A(1), and also an agreement for exchange of the report referred to in sub-section (2) as may be notified by the Central Government.**

6. **"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)***