India Budget Statement 2018

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The Finance Bill as introduced in the Parliament may undergo changes before its enactment.

Contents

Foreword……………………………………………………………………..……………………4

Budget proposals

Direct Tax

Income Tax…………………….…………….…………………………….….……..5

Indirect Tax

Customs………..…....……………………………………………………………... 24

Budget Announcements……..……..……………………………………………..…………. 32

Foreword

The Finance Minister presented the Budget 2018 today, which was anticipated much more keenly than the earlier ones, because of two major reasons. First, it would be the last full-year Budget of the present government before the general election next year. Second, to understand how would the Government fund its rural and populist agenda considering its stated stand to stick to fiscal discipline coupled with the fact that it couldn't have expected any support from businesses which were already struggling with the burden of the implementation of Goods and Services Tax effective from July 1, 2017.

As promised in earlier Budgets, the Corporate Tax rate was reduced to 25% for companies with a turnover upto Rs 2.5billion benefiting more than 99% of the Smaller and Medium Enterprises. The Cess on Tax was renamed as 'Health and Education Cess' and increased from 3% to 4%. The "effective taxpayer base" of those who filed returns as well as those who did not but paid TDS or advance tax increased from 64.7 million at the beginning of 2014-15 to 82.7 million at the end of 2016-17. With more provisions being introduced in this Budget, for compulsory PAN to be obtained by all entities having financial transactions in excess of Rs 250,000 and mandatory tax filing for all companies, this number is likely to increase exponentially in the coming years. The focus of the Government is clearly evident on increasing the current tax base. However, irrespective of this increase in compliance, the salaried class went unrewarded with nothing much substantial offered to them except some marginal tax saving due to introduction of standard deduction, in lieu of medical and transport deductions.

The Budget also included a lengthy list of increases in Customs duties coupled with a social welfare surcharge of 10% indicated that the government was serious in its agenda to protect domestic industries that were labour intensive and give Make in India campaign a huge fillip.

The four broad themes of this year's Budget were agriculture, health, education and employment. Like Obamacare, the Government announced a new National Health Protection Scheme offering health coverage of upto Rs 500,000 per family for over 100mn families, making it the world's largest such state funded scheme. In various policy statements as part of the Budget, the Government also announced increase in funds allocation to various agriculture, infrastructure, education, rural, employment and livelihood schemes. The only way the government could have garnered revenue for all these increased spendings was by reintroduction of a 10% tax on the Long term Capital Gains on sale of listed securities which had been exempted since 2005, though introducing it cautiously with the grandfathering of gains up to January 31, 2018 has reduced its impact.

Budget 2018 indicates the Government is likely to go for early elections and it seems the Finance Minister may just have presented the mother of all election manifestos.

February 1, 2018 **Team MGB**

Budget Proposals

DIRECT TAXES

INCOME TAX

Rates of Income Tax

- **Individuals (includes HUF, AOP, BOI)**

Taxable Income (Rs)	Tax Rates (%)*
0 – 2,50,000 #	Nil
2,50,001 – 5,00,000 ^	5.20
5,00,001 – 10,00,000	20.80
10,00,001 – 50,00,000	31.20
50,00,001 – 1,00,00,000	34.32 **
> 1,00,00,001	35.88 ***

** includes Health and Education Cess of 4%*
 # Rs. 3,00,000 for Senior Citizens (60years+) and Rs. 5,00,000 for very Senior Citizens (80years+). Please note than there is no separate basic exemption limit for women
^ Rebate of tax payable or Rs. 2,500, whichever is less, for individuals whose total income does not exceed Rs. 3,50,000
*** Includes Surcharge of 10%* **** Includes Surcharge of 15%*

- **Partnership Firms (including LLP)**

Taxable Income (Rs)	Tax Rates (%)*
<10,000,000	31.20
> 10,000,001	34.944**

** includes Health and Education Cess of 4%*
*** includes Surcharge of 12%*

- **Domestic Company**

Taxable Income (Rs)	Tax Rates (%) *	
	Turnover in FY 2016-17 is less than Rs 250 Crores	Turnover in FY 2016-17 is more than Rs 250 Crores
<1,00,00,000	26.00	31.20
1,00,00,001 >10,00,00,000	27.82 **	33.384 **
> 10,00,00,001	29.12 ***	34.944 ***

** includes Health and Education Cess of 4%*
*** includes Surcharge of 7%* **** includes Surcharge of 12%*

- **Foreign Company**

Taxable income (Rs)	Tax Rates (%) *
<1,00,00,000	41.60
1,00,00,001 >10,00,00,000	42.432 **
> 10,00,00,001	43.680 ***

** includes Health and Education Cess of 4%*
*** includes Surcharge of 2%* **** includes Surcharge of 5%*

- **Other Corporate Tax Rates**

Tax	Tax Rates (%) *
Dividend Distribution Tax	17.472 $
Minimum Alternative Tax	
<1,00,00,000	19.24
1,00,00,001 >10,00,00,000	20.587 **
> 10,00,00,001	21.549 ***

** includes Health and Education Cess of 4%*
$ in case of DDT, the effective rate would be 20.555%, after grossing up
*** includes Surcharge of 7%* **** includes Surcharge of 12%*

International Taxation

Expanding scope of the term "Business Connection"

- Under the existing provisions, "business connection" includes business activities carried on by non-resident through dependent agents, if any person acting on behalf of the non-resident, is habitually authorized to conclude contracts for the non-resident.

- In order to incorporate the recommendations of the BEPS Action Plan 7 which have been included in Article 12 of Multilateral Convention to Implement Tax Treaty Related Measures, it is proposed to widen the scope to include a person who habitually plays a principal role leading to the conclusion of contracts where the contracts are:

  (i) in the name of the non-resident; or

  (ii) for the transfer of the 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

  (iii) for the provision of services by that non-resident.

- Further, under the existing provisions, the taxability of business income of a non-resident required some "business connection" in India which is essentially provides for physical presence based nexus rule of the non-resident in India.

- It is now proposed to include "significant economic presence" in India also to constitute "business connection" in India. For the said purpose, "significant economic presence" shall mean:

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

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

[Section 9(1) w.e.f AY 2019-20]

Salaries

Standard deduction from salary income

- It is proposed to allow standard deduction upto Rs 40,000/- or the amount of salary received, whichever is less. Consequently, the present exemption in respect of transport allowance (except in case of differently abled persons) and reimbursement of medical expenses is proposed to be withdrawn.

[Section 16 w.e.f. AY 2019-20]

Income from Business and Profession

Taxability of compensation in connection to business or employment

- It is proposed to tax all compensation received in connection with termination or modification of business contract, whether capital or revenue.

[Section 28(ii) w.e.f AY. 2019-20]

Tax treatment of transactions of trading in agricultural commodity derivatives

- Under the existing provisions, trading in commodity derivatives carried out on a recognized stock exchange and chargeable to commodity transaction tax is excluded from the definition of speculative transactions. However, presently, trading in agricultural commodity derivatives are exempt from commodity transaction tax (CTT) and therefore they are not excluded from the definition of speculation.

- In order to encourage participation in trading of agricultural commodity derivatives, it is proposed that transaction in respect of trading of agricultural commodity derivatives, which is not chargeable to CTT, on a registered stock exchange or registered association, will also be treated as non-speculative transaction.

[Section 43(5) w.e.f. AY 2019-20]

Presumptive income in case of goods carriage

- Under the existing provisions, presumptive income for an assessee owning less than 10 goods carriages and engaged in the business of plying, hiring and leasing such goods carriages is Rs 7,500/- per month per goods carriage.

- In case, where the assessee has heavy goods carriage (i.e. goods carriage weighing more than 12MT), it is proposed to increase such presumptive income to Rs 1,000/- per ton of gross vehicle weight per month per heavy goods carriage. The existing presumptive income would continue in cases of other goods vehicle weighing less than 12MT.

[Section 44AE w.e.f AY. 2019-20]

Amendments to notified Income Computation and Disclosure Standards

- Presently, the Central Government has notified ten Income Computation and Disclosure Standards (ICDS) effective from 1st April 2017 relating to AY 2017-18.

- In order to bring certainty in the wake of recent judicial pronouncements on the issue of applicability of ICDS, it is proposed that:

    - no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except Marked to market loss or other expected loss as computed in the manner provided in ICDS.

    - subject to the provisions of section 43A, 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.

    - 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.

- It is proposed that for the purpose of determining the income chargeable under the head “Profits and gains of business or profession:

    - the valuation of inventory shall be made at lower of actual cost or net realizable value computed in the manner provided in ICDS.

- 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.

- 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.

- 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.

- It is also proposed that:

    - 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.

    - 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 realization is achieved.

    - Subsidy/ grant/ re-imbursement shall be deemed to be the income of the previous year in which it is received.

[Section 36, 40A, 43AA, 43CB, 145A, 145B w.r.e.f. AY 2017-18]

Capital Gains

Taxation of long-term capital gains on sale of equity shares

- Under the existing regime, long term capital gains arising from transfer of long term capital assets, being equity shares of a company or an unit of equity oriented fund or an unit of business trusts carried out on a recognized stock exchange and liable to securities transaction tax (STT) is exempt from tax.

- It is proposed to tax, such long term capital gains, in excess of Rs. 1,00,000/- @ 10%.

- This concessional rate of 10% will be applicable to such long term capital gains, if:

  - In a case, where long term capital asset is in the nature of an equity share in a company, STT has been paid on both acquisition and transfer of such capital asset; and

  - In a case, where long term capital asset is in the nature of an equity oriented fund or a unit of a business trust, STT has been paid on transfer of such capital asset.

- The requirement of payment of STT at the time of transfer of long term capital asset, being a unit of equity oriented fund or a unit of business trust, shall not apply if the transfer is undertaken on recognized stock exchange located in any International Financial Services Centre ("IFSC") and the consideration of such transfer is received or receivable in foreign currency.

- The long term capital gains will be computed without giving effect to inflation indexation in respect of cost of acquisitions and cost of improvement, if any, and the benefit of computation of capital gains in foreign currency in the case of a non-resident, will not be allowed.

- The cost of acquisitions in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of:

  a) the actual cost of acquisition of such asset; and

  b) the lower of:
  (I) the fair market value of such asset; and
  (II) the full value of consideration received or accruing as a result of the transfer of the capital asset.

  Fair market value has been defined to mean:

  a) in a case where the capital asset is listed on any recognized stock exchange, the highest price of the capital asset quoted on such exchange on the 31st day of January, 2018. However, where there is no trading in such asset on such exchange on the 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value; and

b) in a case where the capital asset is a unit and is not listed on recognized stock exchange, the net asset value of such asset as on the 31st day of January, 2018.

- The benefit of deduction under chapter VIA shall not be allowed on such capital gains. Also, the rebate under section 87A shall not be allowed from the income tax on such capital gains.

- It is proposed to make consequential amendments to the provisions of section 10(38) and the provisions of section 115AD (tax on income of FII from securities or capital gains arising from their transfer).

[Section 112A, 115AD& 10(38) w.e.f AY. 2019-20]

Rationalization of provisions relating to conversion of stock-in-trade into capital asset

- Under the existing provisions, capital gains arising from conversion of capital asset into stock-in-trade are taxable. However, in cases where stock in trade is converted into, or treated as, capital asset, no tax treatment was provided for.

- It is proposed that:

  - 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.

  - For this purpose, the fair market value of the inventory on the date of conversion or treatment shall be deemed to be the full value of the consideration.

  - Consequential amendments are made to the definition of income, period of holding and cost of acquisition.

[Section 2(42A), 2(24), 28, 45, 49 w.e.f. AY 2019-20]

Rationalization of provision relating to sale of immoveable property

- Under the existing provisions, while taxing income from capital gains, business profits and other sources arising out of transactions in immovable property, the sale consideration or stamp duty value, whichever is higher, is adopted. The difference is taxed as income both in the hands of the purchaser and the seller.

- This variation can occur in respect of similar properties in the same area because of a variety of factors, including shape of the plot or location.

- In order to minimize hardship in case of genuine transactions in the real estate sector, it is proposed that no adjustments shall be made in a case where the difference between the stamp duty value and the sale consideration is not more than 5% of the sale consideration.

[Section 43CA, 50C & 56 w.e.f. AY 2019-20]

Measures to promote International Financial Services Centre (IFSC)

- In order to promote the development of world class financial infrastructure in India, it is proposed that transactions in the following assets, by a non-resident on a recognized stock exchange located in any International Financial Services Centre shall not be regarded as transfer, if the consideration is paid or payable in foreign currency:

  - bond or Global Depository Receipt, as referred to in sub-section (1) of section 115AC; or
  - rupee denominated bond of an Indian company; or
  - derivative

[Section 47(viiab), w.e.f. AY 2019-20]

Rationalization of provisions of section 54EC

- Under the existing provisions, exemption in provided in respect of capital gains, arising from transfer of any long-term capital asset, invested in long-term specified assets, within a period of six months after the date of such transfer, and redeemable after three years,.

- It is proposed to restrict the scope of the section only to capital gains arising from the transfer of a long-term capital asset, being land or building or both, invested in long-term specified assets, within a period of six months after the date of such transfer, and redeemable after five years.

[Section 54EC w.e.f. AY 2019-20]

Income from Other Sources

Tax neutral transfers

- It is proposed that receipt of any property by a wholly-owned Indian subsidiary from its holding company and by an Indian holding company from its subsidiary shall be exempt from tax.

[Section 56 w.e.f. AY 2018-19]

Taxability of compensation in connection to business or employment

- It is proposed to tax compensation received in connection with termination or modification of any contract relating to its employment, whether capital or revenue, under the head Income from Other Sources.

[Section 56 w.e.f AY. 2019-20]

Benefit of carry forward and set off of losses

- Under the existing provisions, 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.

- The case of a company seeking insolvency resolution under Insolvency and Bankruptcy Code, 2016, involves change in the beneficial owners of shares beyond the permissible limit under section 79, which acts as a hurdle for restructuring and rehabilitation of such companies.

- It is proposed to relax the rigors of section 79 in case of such companies, whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

[Section 79 w.e.f. AY 2018-19]

Relief from Minimum Alternate Tax (MAT) & Alternate Minimum Tax (AMT)

- Under the existing provisions, while computing book profits, a deduction is allowed 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.

- It is proposed that aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) 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.

- It is also proposed to reduce the alternate minimum tax chargeable to non-corporate assessee on adjusted total income from 18.5 % to 9 % in case of a unit located in an International Financial Service Center.

- Consequential amendment in section 115JF is also proposed to be made.

[Section 115JB, 115JC & 115JF w.e.f AY 2018-19]

Dividend Distribution Tax

Application of Dividend Distribution Tax to Deemed Dividend

- At present, deemed dividend is subject to tax in the hands of the recipient and not subject to dividend distribution tax in the hands of the company.

- It is proposed that deemed dividend shall be subject to dividend distribution tax in the hands of the company, at the rate of 30% without grossing up.

- Accordingly, such deemed dividend will be exempt under section 10(34).

[Section 2(22)(e) w.e.f AY 2018-19]

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

- Under the existing provisions, income distributed to individual/ HUF and any other person by a money market mutual fund or a liquid fund are taxable at 25% and 30% respectively. No tax is levied on income distributed by equity oriented fund.

- It is proposed that income distributed to any person by an equity oriented fund shall be liable to dividend distribution tax at 10%.

[Section 115R w.e.f AY 2018-19]

Widening of the scope of term "accumulated profits" defined for the purpose of dividend in order to check certain abusive arrangements undertaken by companies through amalgamation

- Section 2(22) defines "dividend" to include distribution of accumulated profits, whether capitalized or not, to its shareholders by a company.

- It is proposed to widen the existing scope of term "accumulated profits" to include the accumulated profits, whether capitalized or not, of the amalgamating company as on the date of amalgamation.

[Section 2(22) w.e.f AY 2018-19]

Transfer Pricing

Rationalization of provisions relating to Country-by-Country Report

- 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, to improve the effectiveness and reduce the compliance burden of Country-by-Country Reporting (CbCR), it is proposed that:

  - 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;

  - 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;

- 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.

[Section 286 w.r.e.f. AY 2017-18]

Deductions/Exemptions

Deductions to senior citizens in respect of health insurance premium and medical treatment

- Under the existing provisions, deduction upto Rs 30,000/- is allowed to an assessee, being an individual or a Hindu undivided family, 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.

- It is proposed to raise this monetary limit from Rs 30,000/- to Rs 50,000/-.

- Also, 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.

[Section 80D w.e.f. AY 2019-20]

Enhanced deduction to senior citizens for medical treatment of specified diseases

- Under the existing provisions, 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.

- It is proposed to raise this monetary limit of deduction to Rs 1,00,000/- for both senior citizens and very senior citizens.

[Section 80DDB w.e.f. AY 2019-20]

Deduction in respect of interest income to senior citizens

- Under the existing provisions, deduction upto Rs 10,000/- is allowed under section 80TTA to individuals / HUF, in respect of interest income from savings bank account.

- It is proposed to insert a new section 80TTB, to allow deduction upto Rs 50,000/- in respect of interest income from bank deposits held by senior citizens. However, no deduction under section 80TTA shall be allowed in these cases.

[Section 80TTB, w.e.f. AY 2019-20]

Deduction in respect of income of Farm Producer Companies

- Under the existing provisions, 100% of profit attributable to eligible business is allowed as deduction to cooperative society which provides assistance to its members engaged in primary agricultural activities.

- Similar benefit of deduction of 100% of profit derived from eligible business is also propose to extend to Farm Producer Companies (FPC), whose total turnover is less than Rs. 100 crores in any previous year.

[Section 80PA w.e.f. AY 2019-20]

Measures to promote start-ups

- Under the existing provisions, an eligible start up shall be allowed a deduction of an amount equal to 100 % of the profits and gains derived from eligible business for three consecutive assessment years out of seven years at the option of the assessee, if all following conditions are satisfied:

  - it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;

  - 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

  - it is engaged in the eligible business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

- However, in order to improve the effectiveness of the scheme for promoting start-ups in India, it is proposed that:

  - The benefit now would also be available to start ups incorporated on or after the 1st day of April 2019 but before the 1st day of April, 2021;

  - The requirement of the turnover not exceeding Rs 25 crores would apply to seven previous years commencing from the date of incorporation;

  - The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

[Section 80-IAC w.e.f. AY 2018-19]

Incentive for employment generation

- Under the existing provisions, 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. However, the minimum period of employment is relaxed to 150 days in the case of apparel industry.

- In order to encourage creation of new employment, it is proposed to extend this relaxation to footwear and leather industry.

- 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.

[Section 80JJAA w.e.f. AY 2019-20]

Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers

- Under the existing provisions, an employee contributing to the NPS is allowed an exemption in respect of 40% of the total amount payable to him on closure of his account or on his opting out. This exemption is not available to non-employee subscribers.

- In order to provide a level playing field, it is proposed to extend the said benefit to all subscribers.

[Section 10(12A) w.e.f. AY 2019-20]

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

- Under the existing provisions, 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. This burden is not cast upon assesses claiming deductions under several other similar provisions.

- It is proposed 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.

[Section 80AC w.e.f. AY 2018-19]

Tax deduction at source

Interest income to senior citizens

- It is proposed to raise the threshold for deduction of tax at source on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-.

[Section 194A w.e.f. 1st April 2018]

Assessment/Appeals

Widening of entities requiring PAN

- Under the existing provisions, every person specified therein and who has not been allotted a Permanent Account Number ("PAN") shall apply to the Assessing Officer for allotment of PAN.

- It is proposed to include the following within the scope of persons requiring PAN:

  a) every entity, not being an individual, which enters into any financial transaction of an amount aggregating to Rs.2.50 Lakh or more in a financial year; and

b) directors, partners, principal officers, office bearer or any person competent to act on behalf of such entities.

[Section 139A w.e.f AY 2018-19]

Prima-facie adjustments during processing of return of income

- Under the existing provisions, at the time of processing of return of income, the total income or loss shall be computed after making the adjustments specified in sub-clauses (i) to (vi) thereof.

- Sub-clause (vi) provides for adjustment in respect of addition of income appearing in Form 26AS or Form16A or Form 16 which has not been included in computing the total income in the return.

- With a view to restrict the scope of adjustments, it is proposed to insert a new proviso to the said clause to provide that no adjustment under sub-clause (vi) shall be made.

[Section 143(1) w.e.f.AY 2018-19]

New scheme for scrutiny assessment

- It is proposed to prescribe a new scheme for the purpose of making assessments 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.

[Section 143(3) w.e.f.AY 2018-19]

Appeal against penalty imposed by Commissioner (Appeals) under section 271J

- It is proposed that any assessee aggrieved by the order of Commissioner (Appeals) passed under section 271J may also appeal to the Appellate Tribunal against such order.

[Section 253 w.e.f. AY 2018-19]

Penalties

Prosecution for failure to furnish return by a company

- Under the existing provisions, 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.

- Further, the sub-clause 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 the advance tax, if any, paid and any tax deducted at source, does not exceed three thousand rupees.

- In order to prevent abuse of the said provisions by shell companies or by companies holding Benami properties, it is proposed that the said sub-clause shall not apply in respect of a company.

[Section 276CC w.e.f. AY 2018-19]

Penalty for failure to furnish statement of financial transaction /reportable account

- It is proposed to increase the penalty leviable on failure to furnish statement of financial transaction or reportable account under sub-section (1) and (5) of section 285BA from Rs. 100 to Rs. 500 and Rs. 500 to Rs. 1000 for each day of continuing default respectively.

[Section 271FA w.e.f. AY 2018-19]

Charitable Trusts

TDS and manner of payment in respect of certain exempt entities

- Under the existing provisions, exemption is provided for in respect of income of entities such as universities, trusts, hospitals, funds, etc. where such income is applied or accumulated during the previous year for certain purposes in accordance with the relevant provisions. Similar provisions were provided for in Section 11 of the Act with respect to income from property held for charitable or religious purposes.

- To ensure compliance by these aforesaid entities, of provisions of tax deduction at source, it is proposed that for the purposes of determining the amount of application of income, the provisions of Section 40(a)(ia), 40A(3) and 40A(3A) shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.

[Section 10(23C), 11, 40(a)(ia), 40A(3) & 40A(3A) *w.e.f AY. 2019-20]*

Miscellaneous

Rationalization of provisions of section 115BBE

- Under the existing provisions, no deduction is allowed in respect of any expenditure or allowance or set-off of any loss against the income referred to in section 68/ 69/ 69A/ 69B/ 69C/ 69D, when computed by the assessee in the return of income filed.

- It is proposed that no expenditure or allowance or set off of any loss shall be allowed even in respect of above undisclosed incomes if determined by the Assessing Officer.

[Section 115BBE w.r.e.f. AY 2017-18]

Indirect Taxes

Budget Proposals

INDIRECT TAXES

CUSTOMS

Levy of Social Welfare Surcharge (SWS) in Place of Education Cess

- To fulfill the commitment of the Government to provide and finance, education, health and social security, Clause 108 of Finance Bill, 2018 proposes to levy a duty of Customs, to be called as Social Welfare Surcharge on import of goods into India.

- The surcharge shall be calculated at the rate of 10% on the aggregate of all custom duties. However, the surcharge shall not be calculated on Safeguard duty, Anti-dumping duty, Anti-subsidy duty, IGST & Compensation Cess. Effectively, the levy will be on Basic Custom Duty only.

- Education Cess and Secondary & Higher Education Cess (SHEC), hitherto levied, shall be abolished with introduction of SWS.

- Import of Petrol & Diesel will be levied 3% SWS only instead of normal rate of 10%. Similarly, import of Silver & Gold will also be subjected to SWS at 3% only.

- SWS paid on imported goods shall not be allowed as Input Tax Credit.

Levy of Road & Infrastructure Cess

- On import of Petrol & Diesel, an additional duty of customs has been levied to be called as Road & Infrastructure Cess (RIC) at Rs 8 per litre. However, Road Cess imposed vide Finance Act, 1998 at Rs. 6 per litre has been discontinued.

- In case of Petrol & Diesel manufactured in India, RIC is imposed at Rs 8 per litre as an Additional Excise Duty. Road Cess, hitherto levied, on manufactured Petrol & Diesel has been abolished. It may be noted that petrol & diesel is not covered in GST and excise duties are levied on manufacturing of the same.

- To keep the incidence of taxes at par with pre-budget rates, existing custom duties and excise duties has been reduced by Rs 2 per litre.

- For refineries located in North-east area, 50% exemption from RIC is given i.e. levied at 4% only.

Changes in Advance Rulings Mechanism

- Advance Ruling mechanism in Customs is changed in line with mechanism adopted in GST. Custom Authority for Advance Ruling (CAAR) shall be constituted with officer of the rank of Principal Commissioner / Commissioner of Customs.

- Against orders passed by said CAAR, appeals can be filed before Appellant Authority for Advance Rulings (AAAR).

- Now, any person can seek advance ruling i.e. written decision on any of the questions related to duty / exemption in his application in respect of any goods prior to its importation or exportation.

- The CAAR shall pronounce the ruling within 3 months from the date when an application has been made.

IGST & Compensation Cess in Case of Sale of Warehoused Goods

- The Customs Tariff Act has been amended to provide that in case of sale of goods deposited in warehouse before being cleared or exported shall be higher of the amount on which Custom Duty is payable as per Customs Act or Transaction Value at which such goods are sold. This amendment is in line with recently issued CBEC Circular on subject.

Power to Exempt Goods Imported for Repairs / Job Working

- Sec. 25A is inserted in the Act to exempt notified goods which are imported for the purposes of repair, further processing or manufacture in India. Further, Sec. 25B is inserted in the Act to exempt notified goods re-imported after being exported for the purposes of repair, further processing or manufacture.

- Therefore, import of goods for inward processing as well as outward processing will be exempt under the above provisions.

Changes in Procedure of Adjudication / Assessment

- Pre-notice consultation has been made mandatory before issuance of show cause notice (SCN) under Sec. 28 to raise any demand not involving fraudulent intention.

- Power to issue Supplementary SCN has been inserted within the time period of 2 years / 5 years permitted for issuance of SCN.

- Hitherto, time limit has been prescribed for issuance of SCN only. No maximum time limit has been prescribed for adjudication and passing of orders. Now, definite time limit of 6 months / 1 year has been prescribed for cases not involving fraud and cases involving fraud respectively for passing orders. This time limit can be extended maximum for 6 months / 1 year respectively, if required in a particular case. if a case is not adjudicated within the aforesaid time limits, then it shall be deemed as concluded.

Other Changes in Customs Act, 1962

- In line with procedure of Electronic Cash Ledger (ECL) in GST, ECL is also introduced in Customs vide Sec. 51A. It will enable advance deposit which would be utilised for payment of duties, taxes, fee, interest, and penalty. Balance amount in ECL can be claimed as refund, if required.

- Indian custom waters has been extended to Exclusive Economic Zone (EEZ) and accordingly, powers of search, seizure, confiscation, arrest etc. hitherto applicable till Contiguous Zone of India (up to 24 Nautical Miles into sea) shall be extended up to EEZ (up to 200 Nautical Miles into sea).

- For the first time, statutory recognition is given to import or export by courier along with postal import and export. Board is empowered to frame regulations with respect to courier transactions. It can be seen as attempt to bring courier into mainstream modes of import / export.

- It is provided in Sec. 11 of the Act that any prohibition or restriction or obligation relating to import or export of any goods provided in any other law (such as Foreign Trade Policy) shall be executed only if such prohibition or restriction or obligation is notified under the provisions of Customs Act.

- Similar to GST and erstwhile Excise and Service tax laws, provision of Audit has been inserted in Customs Act vide Sec. 99A. This audit will be similar to EA 2000 audit conducted by departmental audit teams under Central Excise.

- In case of seizure of goods under Sec. 110, it is provided that period for issue of notice can be extended by 6 more months by Commissioner of Customs. It is also provided that no time limit shall apply for issue of SCN if seized goods are provisionally released for use.

- In case of redemption fine payable in lieu of confiscation of goods under Sec. 125, maximum time limit of 180 days been inserted to exercise the option. In case of expiry of 180 days, the option to pay fine shall be void and Central Government will auction the goods, unless an appeal is pending in the matter.

- Hitherto, power to remand a case back for fresh adjudication was not available with Commissioner (Appeals). Now, in specified circumstances, the remanding power is given to Commissioner (Appeals).

- Sec. 153 is being substituted so as to align it with the provisions of the CGST Act to include Speed Post, Courier, and registered email as valid modes of delivery and in case of non-service by such means, to also provide for affixing it at some conspicuous place at the last known place of business or residence in addition to affixing it on the notice board of the Customs House.

Changes in Rate of Duty

Particulars	BCD From	BCD To	Effective Rate
Food Items			
Cashew nuts in shell [Raw cashew]	5%	2.50%	2.50%
Crude edible vegetable oils (HSN 1508 to 1510, 1512, 1513 & 1515)	12.50%	30%	30%
Refined edible vegetable oils (HSN 1508 to 1510, 1512, 1513 & 1515 to 1518)	20%	35%	35%
Miscellaneous Food preparations (other than soya protein) (HSN 2106 90)	30%	50%	50%
Fruit juices & vegetable juices including Cranberry juice (Chap. 20)	30%	50%	50% for all except orange juice with 35%
Perfumes and Toiletry Preparations			
Following goods of HSN 3303 to 3307 – - Perfumes and toilet waters - Beauty / make-up preparations and skin care including sunscreen or suntan preparations; manicure or pedicure preparations; for hair care - Preparations for oral or dental hygiene - Pre-shave, shaving or after-shave preparations, deodorants, bath preparations, depilatories and prepared room deodorizers	10%	20%	20%

- Scent sprays and similar toilet sprays, and mounts and heads; powder-puffs and pads for the application of cosmetic or toilet preparations (HSN 9616)			
Automobiles			
Truck and Bus radial tyres	10%	15%	15%
Specified parts/accessories of motor vehicles (HSN 8407 to 8409 & 8483)	7.50%	15%	7.50%
Parts of Motor Cycles (HSN 8714 10)	10%	15%	15%
Completely Knocked Down imports of motor vehicles, motor cars, motor cycles (HSN 8702 to 8704 & 8711)	10%	15%	15%
Completely Build Units imports of motor vehicles (HSN 8702 & 8704)	20%	25%	25%
Television Sets			
Cushion / Gasket of LCD / LED (HSN 4016) & other parts of HSN 8529	Nil	10%	10%
LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs (HSN 8529)	7.50% / 10%	15%	15%
Footwear			
All types of Footwear (HSN 6401 to 6405)	10%	20%	20%
Parts of Footwear	10%	15%	15%
Jewellery			
Imitation Jewellery (HSN 7117)	15%	20%	20%
Cut and polished coloured gemstones or diamonds (incl. half cut or broken or non-industrial)	2.50%	5%	5%
Furniture			
Seats and parts of seats (HSN 9401)	10%	20%	10%
Mattresses supports; articles of bedding and similar furnishing; (HSN 9403 & 9404) Lamps and lighting fitting, illuminated signs, illuminated name plates and the like [except solar lanterns or solar lamps] (HSN 9405)	10%	20%	20%
Refractories / Construction			
Articles of stone containing magnesite, dolomite or chromite (HSN 6815) Bricks, blocks, tiles and other ceramic goods of siliceous fossil meals or of similar siliceous earths (HSN 6901)	10%	7.50%	7.50%
Refractory bricks, blocks, tiles and similar refractory ceramic constructional goods,	5%	7.50%	7.50%

other than those of siliceous fossil meals or similar siliceous earths (HSN 6902, 03)			
Watches / Clocks			
Wrist watches, pocket watches and other watches, including stop watches (HSN 9101 to 9105)	10%	20%	20%
Smart watches / wearable devices (HSN 8517)	10%	20%	20%
Mobiles & Parts			
Cellular mobile phones (HSN 851712)	15%	20%	20%
- Charger or adapter of mobile phone (HSN 8504 40) - Cell & battery mobile (HSN 8506) - Battery Pack (other than lithium ion batteries) (HSN 8507) - Microphone, Wired headset, Receiver of mobile (HSN 8518) - Keypad & GSM Antenna (HSN 8517) - Side Key of mobile (HSN 8538) - USB Cable (HSN 8544) - Sticker battery slots, film front flash, battery cover, camera lens, back cover etc. (HSN 3919 & 3920) - PU case, sealing gasket (HSN 3926) - Microphone rubber case etc. (HSN 4016) - Screw of mobile (HSN 7318)	10%	15%	15%
Lithium ion batteries (HSN 8507 60)	10%	20%	15%
Printed Circuit board (PCB) imported for manufacturing of charger (HSN 8504) Moulded plastics imported for making chargers (HSN 3926 & 8504)	Nil	10%	10%
Parts for manufacturing PCB or moulded plastics to be used in chargers (to promote Make In India initiative)	Applicable Rate	Nil	Actual User Condition
Other Goods			
Candles, tapers and the like (HSN 3406)	10%	25%	25%
Kites (HSN 4823 90 90) (other goods retained at effective rate of 10%)	10%	20%	20% for Kites only
Silk fabrics (HSN 5007)	10%	20%	20%
Medical Devices (HSN 9018 to 9022)	7.50%	10%	5%
Sunglasses (HSN 9004)	10%	20%	20%

Inputs, parts or accessories for the manufacture of Cochlear Implants (type of medical device)	2.50%	Nil	Nil
Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other toys; puzzles of all kinds (HSN 9503)	10%	20% (Balloons were at 20%)	20% for all goods
Ball screws, linear motion guides, CNC systems for manufacture of all types of CNC machine tools (HSN 8456 to 8463)	7.50%	2.50%	2.50%
- Video game consoles and machines, articles for funfair, table or parlor games and automatic bowling alley equipment (HSN 9504) - Festive, carnival or other entertainment articles (HSN 9505) - Articles and equipment for sports or outdoor games, swimming pools and paddling pools (HSN 9506) - Fishing rods, fishing-hooks and other line fishing tackle; fish landing nets, butter fly nets and similar nets; decoy birds and similar hunting or shooting requisites (HSN 9507) - Roundabouts, swings, shooting galleries and other fairground amusements; travelling circuses, traveling menageries and travelling theatres (HSN 9508)	10%	20%	20%
Articles and equipment for general physical exercise, gymnastics or athletics (HSN 9506 91)	10%	20%	10%
Date, sealing or numbering stamps, and the like (HSN 9611) Cigarette lighters and other lighters (HSN 9613)			

Budget Announcements

GET ANNOUNCEMENTS

OVERVIEW OF THE ECONOMY

- The year 2017-18 was marked with strong macro-economic fundamentals. However, the growth of gross domestic product (GDP) moderated in 2017-18 vis-à-vis 2016-17.

- Consumer Price Index (Combined) inflation for 2016-17 declined to 4.5 per cent from 4.9 per cent in 2015-16. It averaged 3.3 per cent in April-December 2017 and stood at 5.2 per cent in December 2017.

- During 2017-18 (April-September), net FDI was US$ 19.6 billion as compared to US$ 20.9 billion in 2016-17 (April-September), while net portfolio was US$ 14.5 billion in 2017-18 (April-September) as against US$ 8.2 billion in the corresponding period of the previous year.

- The measures that were taken by the Government in the previous years to boost manufacturing, employment generation, improving ease of doing business and transparency via schemes such as Make-in-India, Skill India, direct benefit transfer and measures for financial inclusion were also taken forward in 2017-18.

- An important macro-economic challenge faced by the Indian economy relates to the declining trend in the investment and saving rates.

- Rs 21.57 lakh crores transferred in the form of net GST against the predicted Rs 21.47 lakh.

AGRICULTURE

- Rs 2,000 crores fund for agricultural market and infra-fund will be set up to strengthen the market connectivity.

- Operations Green will be launched with a sum of Rs 500 crores to promote agricultural products.

- Animal husbandry Infrastructure fund is allocated Rs 10,000 crores.

- Propose to launch a restructured bamboo mission with a fund of Rs 1,200 crores.

- Credit target for Agriculture has increased from Rs 8.5 lakh crores to Rs 11 lakh crores.

- A special scheme is introduced in Delhi for pollution reduction.

RURAL ECONOMY

- 4 crore poor people will get power connection according to PM Saubhagya Yojana: A budget of Rs 16,000 crores is allocated.

- Government plans to construct 51 lakh affordable houses in rural areas and 50 lakh affordable houses in urban areas.

- Pradhan Mantri Awas Yojana will build 1 crore houses in rural areas under this scheme.

- National livelihood scheme is allocated Rs 5,750 crores in this budget.

- Government will spend Rs 14.34 lakh crores for creating livelihood in rural areas.

EDUCATION, HEALTH AND SOCIAL PROTECTION

- Estimated budgetary expenditure on health, education and social protection at Rs 1.38 lakh crores.

- Investments for research & infrastructure in premier educational institutions at Rs 1 lakh crores in next 4 years.

- Allocation to National Social Assistance Programme of Rs 9,975 crores.

- World's largest government-funded health care programme titled National Health Protection Scheme announced.

- National Health Protection Scheme to provide coverage up to 5 lakh rupees per family per year for hospitalisation.

- National Health Protection Scheme to cover over 10 crore poor and vulnerable families (approximately 50 crore beneficiaries).
- Rs 1200 crores for the National Health Policy, 2017 and additional Rs 600 crore for TB patients.

- 24 new Government Medical Colleges and Hospitals to be build.

MEDIUM, SMALL AND MICRO ENTERPRISES (MSMEs) and EMPLOYMENT

- Major thrust for Medium, Small and Micro Enterprises (MSMEs) by allocation of Rs 3,794 crores.
- Target of Rs 3 lakh crores for lending under MUDRA Yojana.
- Around 70 lakh formal jobs targeted to be created this year.
- Government to make 12% contribution of new employees in the EPF for all the sectors for 3 years.
- An outlay of Rs 7,148 crores for the textile sector.

DIGITAL ECONOMY

- NITI Aayog to initiate a national program to direct efforts in artificial intelligence.
- Department of Science & Technology to launch Mission on Cyber-Physical Systems.
- Allocation doubled on Digital India programme to Rs 3,073 crores.
- To set up 5 lakh wifi hotspots to provide net-connectivity to five crore rural citizens.
- Rs 10,000 crores for creation and augmentation of telecom infrastructure.

DISINVESTMENT AND GOLD

- Disinvestment target of Rs 72,500 crores exceeded; expected receipts of Rs 1,00,000 crores.
- New disinvestment target of Rs 80,000 crores for 2018-19.
- National Insurance Co. Ltd., United India Assurance Co. Ltd. & Oriental India Insurance Co. Ltd. to be merged into a single entity.
- Comprehensive Gold Policy to be formulated to develop gold as an asset class.

- To establish a system of consumer-friendly and trade efficient system of regulated gold exchanges in the country.
- Gold Monetization Scheme to be revamped to enable people to open a hassle-free Gold Deposit Account.

INFRASTRUCTURE AND FINANCE

- Increase of budgetary allocation on infrastructure for 2018-19 to Rs 5.97 lakh crores against estimated expenditure of Rs 4.94 lakh crores in 2017-18.
- 35,000 kms road construction in Phase-I at an estimated cost of Rs 5,35,000 crores.
- Increase budgetary allocation on infrastructure for at Rs 5.97 lakh crores.
- To develop 10 prominent tourist sites into Iconic Tourism destinations.
- Railways Capital Expenditure for the year 2018-19 has been pegged at Rs 1,48,528 crores.
- Mumbai's local train network will have 90 kilometres of double line tracks at a cost of over Rs 11,000 crores.